

City of Miami Beach - City Commission Meeting Commission Chambers, 3rd Floor, City Hall 1700 Convention Center Drive July 7, 2004

Mayor David Dermer Vice-Mayor Richard L. Steinberg Commissioner Matti Herrera Bower Commissioner Simon Cruz Commissioner Luis R. Garcia, Jr. Commissioner Saul Gross Commissioner Jose Smith

City Manager Jorge M. Gonzalez City Attorney Murray H. Dubbin City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

Call to Order - 9:00 a.m.
Inspirational Message, Pledge of Allegiance
Requests for Additions, Withdrawals, and Deferrals

Presentations and Awards

PA Presentations and Awards

Consent Agenda

C2 Competitive Bid Reports

C4 Commission Committee Assignments

C6 Commission Committee Reports

C7 Resolutions

Regular Agenda

R2 Competitive Bid Reports

R5 Ordinances

R6 Commission Committee Reports

R7 Resolutions

R9 New Business and Commission Requests

R10 City Attorney Reports

Reports and Informational Items



"We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community."

PA - Presentations and Awards

- PA1 Scholarships Provided By SMG, Centerplate And The Greater Miami Visitors And Convention Bureau To Be Awarded To Five Students By The City Of Miami Beach Scholarship Committee. (Page 2) (Neighborhoods Services)
- PA2 Certificate Of Appreciation To Be Presented To Chuck Press, For Retiring After 29 Years Of Service With The Miami Beach Police Department.

(City Manager's Office)

PA3 Certificates Of Appreciation To Be Presented To Staff Who Worked To Ensure That The 2004 Memorial Day Weekend Was A Success.

(Requested by Commissioner Luis R. Garcia, Jr.)

PA4 Certificates Of Appreciation To Be Presented In Recognition Of The Success Of The Relay For Life Event Held On Miami Beach.

(City Manager's Office)

CONSENT AGENDA

Action: Moved: Seconded: Vote:

C2 - Competitive Bid Reports

- C2A Request For Approval To Issue A Request For Proposals (RFP) For Citizen/Public Opinion Survey Services. (Page 5)

 (City Manager's Office)
- C2B Request For Approval To Issue A Request For Proposals (RFP), To Provide Sign Language Interpreting Services To The City, To Facilitate Communication With And Between Persons Who Are Deaf And Hard Of Hearing, For The City Commission Meetings, As Well As For Any Other City Administration Needs. (Page 8)

(Public Works)



C4 - Commission Committee Assignments

C4A Referral To The Neighborhood/Community Affairs Committee - Discussion Regarding The Placement Of A Commemorative Plaque In The Victory Garden, Honoring The Late Joseph Villari. (Page 20)

(Economic Development)

C6 - Commission Committee Reports

- Report Of The Finance And Citywide Projects Committee Meeting Of June 1, 2004: 1) Discussion Regarding A Proposed Amendment Of Miami Beach Golf Club User Fees; 2) Discussion On Policy Issues Regarding How The City Deals With Land Rights, And How To Ensure The City Receives Fair Compensation For The Abandonment Of Easements; And 3) A Resolution Authorizing The Mayor And City Clerk To Approve An Increase To The Community Benefit Fund Surcharge On Tickets Sold At The Jackie Gleason Theater From \$1.00 To \$1.50, And To Reduce The Subsidy Percentage Paid From The Community Benefit Fund On Senior And Student Discounted Tickets From 80% To Approximately 71%. (Page 25)
- Report Of The Land Use And Development Committee Meeting Of June 7, 2004: 1) Presentation And Discussion Regarding The Final Report On The Mayor's Blue Ribbon Panel On Structural Integrity Of Historic Buildings; 2) An Ordinance Revising Parking Lot Setback Requirements In TH And Rm-1 Residential Districts When There Is An Approved Street Improvement Plan That Incorporates A Public-Private Parking Agreement; 3) Discussion Regarding The Issue Of Whether There Should Be Property Owner Approval (For Single-Family Districts) For The Creation Of A Conservation District Before It Is Approved By The City Commission; And 4) Discussion Regarding The Historic Preservation Board's Review Of Public Improvements Upon Rights-Of-Way Located Within Historic Districts. (Page 33)
- C6C Report Of The General Obligation Bond Oversight Committee Meeting Of June 7, 2004: 1) Change Order Report; 2) Recommendation To City Commission: a. Amendment No. 1 To Oceanfront For Indian Creek Greenway; 3) Project Status Report: a. Fire Station No. 2; b. Fire Station No. 4; c. Normandy Isle Park And Pool; 4) Informational Items: a. Updated Calendar Of Scheduled Community Meetings; b. Marseille Drive A/E Additional Services; c. North Shore Park And Youth Center Appropriation To Close Out Project; d. 42nd Street Streetscape Project LTC. (Page 35)

C7 - Resolutions

- C7A A Resolution Setting A Public Hearing, Pursuant To Miami Beach City Code Section 118-564, To Consider Granting A Certificate Of Appropriateness For Demolition Of The Existing Library At Collins Park, A Building Designated Non-Contributing, Located At 2100 Collins Avenue, In Order To Restore And Renovate Collins Park. (Page 46)

 (Capital Improvement Projects)
- C7B A Resolution Accepting \$24,250 In Private Contributions For The Flagler Memorial Phase I Project; Appropriating Funding In The Total Amount Of \$71,050, As Follows; \$24,000 And \$22,800 From The Fiscal Year 2003 And 2004 Resort Tax Funds, Respectively, And \$24,250 In Private Contributions, To Fund This Phase Of The Project. (Page 55)

 (Capital Improvement Projects)
- C7C A Resolution Approving The Addition Of Planning, Design, Surveying And Permitting Services In The Amount Of \$139,730.54, For The Indian Creek Greenway Pilot Project, As Amendment No. 1 To The Scope Of Services Of The Agreement, Dated May 16, 2001, With EDAW, Inc., For The Oceanfront Right Of Way Improvement Project. (Page 60)

 (Capital Improvement Projects)
- C7D A Resolution Setting A Public Hearing Pursuant To Miami Beach City Code Section 118-262, To Review A Design Review Board Decision Requested By The Oceanside At Fisher Island Condominium Association No. 5, Inc. (Page 79)

 (City Clerk's Office)
- C7E A Resolution Amending City Of Miami Beach Resolution No. 2004-25468 So As To Reestablish The Existence Of The City Of Miami Beach Ad Hoc Charter Review And Revision Board For An Additional Period Of Two Months, With Board Terms Commencing On August 7, 2004 And Expiring On October 7, 2004 (Subject To Earlier Sunset By The City Commission). (Page 90)

 (City Clerk's Office)
- C7F A Resolution Consenting To The Appointment Of Kathie Brooks As The New Director Of The Office Of Budget And Performance Improvement. (Page 93)

 (City Manager's Office)

A Resolution Setting A Public Hearing On July 28, 2004, To Hear Public Comment Regarding (1) The C7G Conveyance Of Approximately 7,726 Square Feet Of City-Owned Land Contained In Lots 18, 29 And 30 Of Block 51, Located Between Washington Avenue On The East, Biscayne Court To The North, Alton Road To The West And South Pointe Drive To The South, In Miami Beach, Florida To TRG-Alaska III, LLC, (2) The Conveyance Of Approximately 450 Square Feet Of The Eastern Tip Of The City-Owned Land Commonly Known As The Federal Triangle, Subject To Federal Government Approval, Located Adjacent To The Cook Inlet Region Property Adjacent To South Pointe Park In Miami Beach, Florida, To TRG-Alaska I, LTD., And (3) The Vacation Of Approximately 4,653 Square Feet Of The Southern Portion Of The Alley Known As Ocean Court On Block 1, Located Between Ocean Drive On The East, First Street To The North, Collins Avenue To The West And South Pointe Drive To The South, In Miami Beach, Florida, Pursuant To The Terms Of The Settlement Agreement; Further To Consider Waiver, By 5/7ths Vote, Of The Competitive Bidding And Appraisal Requirements; As Required By Section 82-39 Of The Miami Beach City Code; Finding Said Waiver To Be In The Best Interest Of The City Of Miami Beach. (Page 104)

(City Manager's Office)

- C7H A Resolution Authorizing The Mayor And City Clerk To Execute A Lease Agreement Between The City Of Miami Beach And Omni Credit Services Of Southeast Florida, Inc. For Use Of Suite 200, Comprising Approximately 886 Square Feet Of City-Owned Property, Located At 1701 Meridian Avenue (A/K/A 777 17th Street) Miami Beach, Florida, For A Three Hundred Sixty-Four (364) Day Term, Retroactively Commencing On July 1, 2004, And Ending On June 29, 2005. (Page 111) (Economic Development)
- C7I A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Approve The Placement Of A Commemorative Plaque In Collins Park Honoring Former Mayor Mel Richard, And Referring The Item To The Arts In Public Places Committee, To Determine A Suitable Location. (Page 138)

(Economic Development)

A Resolution Authorizing The City Manager Or His Designee To Submit Grant Applications To The Following Funding Agencies: 1) The State Of Florida, Cultural Facilities Grant Program For Funding In An Amount Not To Exceed \$500,000 For Renovations To The Byron Carlyle Theater; 2) The State Of Florida, Cultural Facilities Grant Program For Funding In An Amount Not To Exceed \$500,000 For The Rotunda; 3) The Visitor And Convention Authority For Funding In An Amount Not To Exceed \$20,000 For The Bass Museum's Paris Moderne Exhibit; And 4) The Baseball Tomorrow Fund For Funds In An Amount Not To Exceed \$60,000 For The City's Baseball Program; Also Leveraging Previously Appropriated City Funds As Needed; Further Appropriating The Grants If Approved And Accepted By The City And Authorizing The Execution Of All Necessary Documents Related To These Applications. (Page 149)

(Grants Management)

- C7K A Resolution Authorizing The Mayor And City Clerk To Execute A Consortium Agreement With Miami-Dade County, Monroe County, The City Of Miami, And The City Of Hialeah For The Purpose Of Continuing To Conduct Programs Under The South Florida Employment And Training Consortium; Said Agreement Effective Retroactively, As Of July 1, 2004, And Expiring On June 30, 2006, Or When Re-Enacted By The Consortium Membership, Whichever Occurs First. (Page 156) (Human Resources)
- C7L A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement With MBCDC: 532 Michigan Avenue, LLC, A Florida Limited Liability Corporation, Established As A Wholly-Owned Affiliate Of The Miami Beach Community Development Corporation (MBCDC), In The Amount Of \$324,596 In Community Development Block Grant (CDBG) Program Funds Through The Multi-Family Housing Rehabilitation Program For The Rehabilitation Of The Aimee Apartments, Located At 532 Michigan Avenue, Miami Beach, To Provide Eighteen (18) Rental Units For Income-Eligible Tenants For A Minimum Period Of Five (5) Years. (Page 177)

(Neighborhood Services)

C7M A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement With Claude Bardel In The Amount Of \$60,000 In Community Development Block Grant (CDBG) Program Funds Through The Multi-Family Housing Rehabilitation Program, For The Rehabilitation Of The Property Located At 1241 Normandy Drive, Miami Beach, To Provide Three (3) Rental Units For Income-Eligible Tenants For Five (5) Years. (Page 196)

(Neighborhood Services)

C7N A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Second Amendment To Home Investment Partnerships (HOME) Program Agreement With Miami Beach Community Development Corporation (MBCDC) Providing A Total Of \$205,632 In HOME Program Funds From Fiscal Year 2003/04, Previously Allocated To MBCDC Toward The Cost Of The Acquisition And Rehabilitation Of The Apartment Building Located At 530 Michigan Avenue, Miami Beach, To Provide Nine (9) Rental Units For Income-Eligible Elderly Tenants, In Accordance With The HOME Program Requirements. (Page 215)

(Neighborhood Services)

C7O A Resolution Authorizing The City Manager Or His Designee To Execute The Second Annual Renewal Of The Memorandum Of Agreement (MOA), With The Florida Department Of Transportation (FDOT) For The Turf And Landscape Maintenance Services On I-195 (Julia Tuttle Causeway) From The East Side Of The Intracoastal Bridge To Alton Road At The Annual Cost Of \$150,000 To Be Paid To The City Of Miami Beach By The FDOT, Said Renewal Shall Commence On September 1, 2004, And Concluding On August 31, 2005 With All Terms And Conditions Remaining As Stipulated In The Memorandum Of Agreement Entered Into In August Of 2000. (Page 220)

(Parks & Recreation)

C7P A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Memorandum Of Agreement (MOA), With The Florida Department Of Transportation (FDOT) For The Turf And Landscape Maintenance Services On I-395 (MacArthur Causeway) From The East Side Of Watson Island To West Edge Of Alton Road, At The Annual Cost Of \$150,000 To Be Paid To The City Of Miami Beach By The FDOT; Said Agreement Commencing On July 1, 2004, And Concluding On June 30, 2005, With An Option To Renew For Two Years. (Page 227)

(Parks & Recreation)

C7Q Future Land Use Map (FLUM) Change

A Resolution Setting A Public Hearing To Consider An Amendment To The Future Land Use Map Of The Comprehensive Plan By Changing The Future Land Use Category For The Following Parcels, More Particularly Described In The Legal Descriptions Attached As Exhibits Hereto: 1) A Portion Of A Parcel Of Land Commonly Known As The "Federal Triangle," Approximately 4,178 Square Feet, From The Current ROS, "Recreation And Open Space," To The Future Land Use Category Of MR, "Marine Recreation"; And 2) A City-Owned Parcel 50-Feet Wide Fronting On Biscayne Bay, Of Approximately 4,600 Square Feet, On Block 8, South Beach Park Subdivision (A/K/A Hinson Parcel) From The Current CPS-3, "Commercial Intensive Mixed-Use," To The Future Land Use Category ROS, "Recreation And Open Space"; Providing For Inclusion In The Comprehensive Plan, Transmittal, Repealer, Severability And An Effective Date. (Page 248)

(Planning Department)

C7R Official Zoning District Map Change

A Resolution Setting A Public Hearing To Consider Amending The Official Zoning District Map, Referenced In Section 142-72 Of The Code Of The City Of Miami Beach, Florida, By Changing The Zoning District Classification For The Following Parcels, More Particularly Described In The Legal Descriptions Attached As Exhibits Hereto: 1) A Portion Of A Parcel Of Land Commonly Known As The "Federal Triangle," Approximately 4,178 Square Feet, From The Current GU, "Government Use," To The Proposed Zoning Classification MR, "Marine Recreation;" And 2) A Portion Of Lot 18 And The 10 Foot Strip Of Land Adjacent Thereto, And A Portion Of Lots 29 And 30 And The 10 Foot Strip Of Land Adjacent Thereto, Block 51 Of The Plat Of Ocean Beach Florida Addition No. 3, From GU, "Government Use," To The Proposed Zoning Classification CPS-1, "Commercial Limited Mixed-Use." (Page 259)

(Planning Department)

C7S Comprehensive Plan Text Amendments

A Resolution Setting Public Hearings To Consider A Compliance Agreement Pursuant To Section 163.3184, Florida Statutes, And Amending Ordinance No. 2002-3370, Which Clarified The Text Of The City Of Miami Beach Comprehensive Plan Concerning The "MR-Marine Recreation" Land Use Designation, By Amending Permitted Uses And Adding Prohibited Uses, And Clarifying The Relationship Of Required Parking To Floor Area Within Such District. (Page 270) (Planning Department)

Portofino DRI - Notice Of Proposed Change C7T

A Resolution Setting A Public Hearing To Consider A Request By TRG-Alaska I LTD., And TRG-Alaska III, LLC., To Amend The Portofino Development Of Regional Impact (DRI) Development Order. As Adopted By City Of Miami Beach Ordinance No. 98-3121, By 1) Filling And Bulkheading The Existing Boat Basin On The Alaska Parcel And 2) Adding Approximately 7,200 Square Feet Of Lands To The DRI. (Page 279)

(Planning Department)

A Resolution Terminating South Dade Electrical's Existing Contract With The City And All Standing C7U Order Thereto: And Further Disgualifying South Dade Electrical From Serving As A Vendor With The City Until November 19, 2004, Pursuant To Section 2-487 A(3) Of The Miami Beach City Code. (Page 288)

(Procurement)

A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Memorandum Of C7V Agreement Between Miami-Dade County And The City Of Miami Beach, Wherein The County Agrees To Reimburse The City For The Design, Permitting, Procurement And Installation Of Standard Mast-Arm Signalization Systems At The Intersections Of Washington Avenue With 11th, 12th, 13th And 14th Streets, In An Amount Not To Exceed \$354,011; These Mast Arm Signals Being An Addition To The City's \$13 Million Washington Avenue Corridor Improvements Project; And Further Authorizing The Advancement Of \$354,011 In City Funds For Subsequent Reimbursement From Miami-Dade County. (Page 293)

(Public Works)

A Resolution Setting A Public Hearing On July 28, 2004 To Consider Public Comment, As Required C7W By Section 82-37 Of The City Code (Ordinance No. 92-2783), Regarding The Vacation Of A Portion (The Southern Half) Of The West 59th Street Street-End, West Of North Bay Road, In Favor Of Roger J. Schindler And Leslie Schindler, Owners Of The Adjacent Property Located At 5860 North Bay Road. (Page 298)

(Public Works)

A Resolution Setting A Public Hearing To Consider Public Comment, As Required By Section 82-37 C7X Of The City Code (Ordinance No. 92-2783), Regarding The Vacation Of A Portion (The Northern Half) Of The West 59th Street Street-End, West Of North Bay Road, In Favor Of William Thomas Harris III And Richard Koenigsberg, As Trustees (The "Tom Harris Trust"), Owner Of The Adjacent Property Located At 5900 North Bay Road. (Page 303)

(Public Works)

End of Consent Agenda

PA - Presentations and Awards



PA1 Scholarships Provided By SMG, Centerplate And The Greater Miami Visitors And Convention Bureau To Be Awarded To Five Students By The City Of Miami Beach Scholarship Committee.

(Neighborhoods Services)

- PA2 Certificate Of Appreciation To Be Presented To Chuck Press, For Retiring After 29 Years Of Service With The Miami Beach Police Department.

 (City Manager's Office)
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 (Requested by Commissioner Luis R. Garcia, Jr.)
- PA4 Certificates Of Appreciation To Be Presented In Recognition Of The Success Of The Relay For Life Event Held On Miami Beach.

 (City Manager's Office)

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CITY OF MIAMI BEACH **COMMISSION ITEM SUMMARY**



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Request for Approval to Issue a Request for Proposals (RFP) for Citizen / Public Opinion Survey Services.

lssue:

Shall the City Commission Approve the Issuance of an RFP for Citizen / Public Opinion **Survey Services?**

Item Summary/Recommendation:

In the City of Miami Beach's (City) ongoing efforts to solicit feedback from the public in order to gauge and measure the success of the delivery of City services, the City seeks to contract for a professional survey(s) to be conducted with members of the Miami Beach community, including, but not limited to residents, members of the business community, and members of civic organizations.

The City requires consultant services to conduct surveys and a variety of survey-related work that may include:

- (1) Carrying out public surveys (by phone, mail, etc.) of customer satisfaction, opinion, attitude, behavior, and knowledge;
- (2) Conducting focus groups; and
- (3) Providing miscellaneous survey-related consulting support in measuring customer satisfaction and opinion, designing miscellaneous customer research instruments and providing technique validation and pertinent training. All surveys and any accompanying information need to be produced in both English and Spanish languages.

APPROVE THE ISSUANCE OF AN RFP.

N/A.

Financial Information: N/A

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3.			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Ramiro Inguanzo

Sign-Offs:

Department Director	Assistant City Manager	Ci	ty Manager
GL 🔏	RI	JMG	Janez
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AGENDA ITEM <u>C2A</u>
DATE <u>7-7-04</u>

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139

www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject: REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR

PROPOSALS (RFP) FOR CITIZEN / PUBLIC OPINION SURVEY

SERVICES.

ADMINISTRATION RECOMMENDATION

Approve the issuance of an RFP.

ANALYSIS

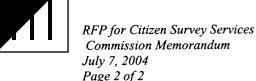
In the City of Miami Beach's (City) ongoing efforts to solicit feedback from the public in order to gauge and measure the success of the delivery of City services, the City seeks to contract for a professional survey(s) to be conducted with members of the Miami Beach community, including, but not limited to residents, members of the business community, and members of civic organizations.

The City requires consultant services to conduct surveys and a variety of survey-related work that may include:

- (1) Carrying out public surveys (by phone, mail, etc.) of customer satisfaction, opinion, attitude, behavior, and knowledge;
- (2) Conducting focus groups; and
- (3) Providing miscellaneous survey-related consulting support in measuring customer satisfaction and opinion, designing miscellaneous customer research instruments and providing technique validation and pertinent training. All surveys and any accompanying information need to be produced in both English and Spanish languages.

Specifically, the consultant will be responsible for the following, each of which will be subject to the review and approval by the City Manager or his designee:

- (1) Survey Design;
- (2) Conduct focus groups to identify issues;
- (3) Design and review survey format, instrument and questions and revise as needed to insure questions will generate unbiased responses;
- (4) Pretest survey instrument and revise as needed;



- (5) Design format for an executive summary and/or detailed written report that will be used to present the survey findings.
- (6) Survey Administration: Administer the survey to insure a ninety-five (95) percent confidence rating in the survey findings with a five point plus or minus variance, taking into consideration the following factors:
 - (i) Sample size, including sub-samples for demographic sub-groups and geographic regions;
 - (ii) Random selection of respondents to the survey;
 - (iii) Non-respondents not affecting survey results; and
 - (iv) Survey implementation, including select interviewers as appropriate.
- (7) Presentation of Survey Results:
 - (i) Code the completed survey and computerize the data;
 - (ii) Develop cross tabulations as required;
 - (iii) Compare results to other municipalities and jurisdictions;
 - (iv) Prepare an executive written summary summarizing key survey findings and detailed written report of the responses to survey questions, including actionable recommendations for customer service improvements;
 - (v) Make verbal presentation to the City Commission and/or City staff as required; and
 - (vi) Determine that changes in survey results or trends identified by different surveys are statistically valid.

An evaluation committee appointed by the City Manager will recommend the most qualified professional firm to provide citizen survey services based on the following criteria:

- 1. Experience and qualifications of the firm 15 points.
- 2. Experience and qualifications of the individual(s) assigned to provide all survey-related work 30 points.
- 3. Methodology and Approach 15 points.
- 4. Cost/Fees 20 points.
- 5. Successful Past Performance in Providing Similar Services 20 points.

CONCLUSION

The Administration recommends that the City Commission approve the issuance of an RFP for citizen survey services.

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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Authorization for the issuance of a Request for Proposals (RFP), to provide sign language interpreting services for City Commission Meetings, as well as for any other City Administration needs.

Shall the City issue a RFP for sign language interpreting services?

Item Summary/Recommendation:

The preamble to Title II of the Americans with Disabilities Act (ADA), the U. S. Department of Justice requires the public entity to take such steps as may be necessary to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To comply with this requirement, the City has provided contracted sign language interpreting services since 1998. Sign language interpreting services are provided for City Commission meetings and other situations, such as for job interviews and job applicant testing, on an as-needed basis. The American Sign Language Interpreter Program is funded annually from the Miami-Dade Parking Fines Grant. The purpose of the grant program is to fund projects and programs that provide access for persons with disabilities.

The existing contract with Accommodating Ideas, Inc. for sign language interpreting services expired on May 11, 2004, with no options for renewal. In order to continue services, the City issued a Standing Order for payment of services through September 30, 2004; however, a Request for Proposal is required to acquire these services competitively and for longer periods of time. The scope of services developed by the Public Works Department provides performance criteria and standards. The Administration recommends approving the authorization.

Adviso	ny Roar	d Pecom	mendation:
AUVISU	nv boan	1 KeCOIII	mencalion

N/A

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total	N/A		

City Clerk's Office Legislative Tracking:

Robert Halfhill

Sign-Offs:

AGENDA ITEM <u>CQB</u>

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR PROPOSALS

(RFP), TO PROVIDE SIGN LANGUAGE INTERPRETING SERVICES TO THE CITY, TO FACILITATE COMMUNICATION WITH AND BETWEEN PERSONS WHO ARE DEAF AND HARD OF HEARING, FOR CITY COMMISSION MEETINGS, AS WELL AS FOR ANY OTHER CITY

ADMINISTRATION NEEDS.

ADMINISTRATION RECOMMENDATION

Issue the Request for Proposals.

ANALYSIS

The Americans with Disabilities Act of 1990 ("ADA") addresses communications with applicants, participants, and members of the public with disabilities with the intent of ensuring measures are taken to provide assistance to individuals with disabilities that are as effective as communications with others. Ensuring effective communications requires furnishing appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, the public entity's service, program, or activity.

Sign language interpreting services is one of the auxiliary services that the City of Miami Beach provides. The preamble to Title II of the Americans with Disabilities Act (ADA), the U. S. Department of Justice requires the public entity to take such steps as may be necessary to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. Sign language interpreting services are also provided by the City in other situations on an as-needed basis, such as for job interviews and job applicant testing. The American Sign Language Interpreter Program is funded annually from the Miami-Dade Parking Fines Grant. The purpose of the grant program is to fund projects and programs that provide access for persons with disabilities.

The City has contracted sign language interpreting services since 1998. The existing contract with Accommodating Ideas, Inc. for sign language interpreting services expired on May 11, 2004, with no options for renewal. In order to continue services, the City issued a



Sign Language Interpreting Services RFP Commission Memorandum July 7, 2004 Page 2

Standing Order for payment of services through September 30, 2004; however, a Request for Proposal is required to acquire these services competitively and for longer periods of time. The scope of services developed by the Public Works Department provides performance criteria and standards.

CONCLUSION

The Administration recommends that the Mayor and City Commission authorize the issuance of a Request for Proposals, for sign language interpreting services, for City Commission meetings, as well as for any other City Administration needs.

JMG/RCM/FHB/RTH

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ADA TITLE II AND EFFECTIVE COMMUNICATION REQUIREMENTS AS RELATED TO CITY COMMISSION MEETINGS

DEPARTMENT OF JUSTICE, Office of the Attorney General; 28 CFR PART 35

Nondiscrimination on the Basis of Disability in State and Local Government Services

AGENCY: Department of Justice.

ACTION: Final rule.

EFFECTIVE DATE: January 26, 1992.

Subpart E -- Communications

{35.160 General.

Section 35.160 requires the public entity to take such steps as may be necessary to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

Paragraph (b)(1) requires the public entity to furnish appropriate auxiliary aids and services when necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, the public entity's service, program, or activity. The public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice. This expressed choice shall be given primary consideration by the public entity ({35.160(b)(2)). The public entity shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under {35.164.

Deference to the request of the individual with a disability is desirable because of the range of disabilities, the variety of auxiliary aids and services, and different circumstances requiring effective communication. For instance, some courtrooms are now equipped for "computer-assisted transcripts," which allow virtually instantaneous transcripts of courtroom argument and testimony to appear on displays. Such a system might be an effective auxiliary aid or service for a person who is deaf or has a hearing loss who uses speech to communicate, but may be useless for someone who uses sign language.

Although in some circumstances a notepad and written materials may be sufficient to permit effective communication, in other circumstances they may not be sufficient. For example, a qualified interpreter may be necessary when the information being communicated is complex, or is exchanged for a lengthy period of time. Generally, factors to be considered in determining whether an interpreter is required include the context in which the communication is taking place, the number of people involved, and the importance of the communication. (Boldface added for emphasis.)

Several commenters asked that the rule clarify that the provision of readers is sometimes necessary to ensure access to a public entity's services, programs or activities. Reading devices or readers should be provided when necessary for equal participation and opportunity to benefit from any governmental service, program, or activity, such as reviewing public documents, examining demonstrative evidence, and filling out voter registration forms or forms needed to receive public benefits. The importance of providing qualified readers for examinations

administered by public entities is discussed under {35.130. Reading devices and readers are appropriate auxiliary aids and services where necessary to permit an individual with a disability to participate in or benefit from a service, program, or activity.

Section 35.160(b)(2) of the proposed rule, which provided that a public entity need not furnish individually prescribed devices, readers for personal use or study, or other devices of a personal nature, has been deleted in favor of a new section in the final rule on personal devices and services (see {35.135}).

In response to comments, the term "auxiliary aids and services" is used in place of "auxiliary aids" in the final rule. This phrase better reflects the range of aids and services that may be required under this section.

A number of comments raised questions about the extent of a public entity's obligation to provide access to television programming for persons with hearing impairments. Television and videotape programming produced by public entities are covered by this section. Access to audio portions of such programming may be provided by closed captioning. (Boldface added for emphasis.)

The Americans with Disabilities Act, Title II Technical Assistance Manual

Covering State and Local Government Programs and Services

Found at: http://www.usdoj.gov/crt/ada/taman2.html

II-7.0000 COMMUNICATIONS (Regulatory references: 28 CFR 35.160-35.164.)

II-7.1000 Equally effective communication. A public entity must ensure that its communications with individuals with disabilities are as effective as communications with others. This obligation, however, does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of its services, programs, or activities, or in undue financial and administrative burdens.

In order to provide equal access, a public accommodation is required to make available appropriate auxiliary aids and services where necessary to ensure effective communication. What are auxiliary aids and services? Auxiliary aids and services include a wide range of services and devices that promote effective communication.

Examples of auxiliary aids and services for individuals who are deaf or hard of hearing include qualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, and exchange of written notes.

Examples for individuals with vision impairments include qualified readers, taped texts, audio recordings, Brailled materials, large print materials, and assistance in locating items.

Examples for individuals with speech impairments include TDD's, computer terminals, speech synthesizers, and communication boards.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved.

ILLUSTRATION 1: Some individuals who have difficulty communicating because of a speech impairment can be understood if individuals dealing with them merely listen carefully and take the extra time that is necessary.

ILLUSTRATION 2: For individuals with vision impairments, employees can provide oral directions or read written instructions. In many simple transactions, such as paying bills or filing applications, communications provided through such simple methods will be as effective as the communications provided to other individuals in similar transactions. Many transactions with public entities, however, involve more complex or extensive communications than can be provided through such simple methods. Sign language or oral interpreters, for example, may be required when the information being communicated in a transaction with a deaf individual is complex, or is exchanged for a lengthy period of time. Factors to be considered in determining whether an interpreter is required include the context in which the communication is taking place, the number of people involved, and the importance of the communication. (Boldface added for emphasis.)

Must public service announcements or other television programming produced by public entities be captioned? Audio portions of television and videotape programming produced by public entities are subject to the requirement to provide equally effective communication for individuals with hearing impairments. Closed captioning of such programs is sufficient to meet this requirement.

II-7.1100 Primary consideration. When an auxiliary aid or service is required, the public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and must give primary consideration to the choice expressed by the individual. "Primary consideration" means that the public entity must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial and administrative burdens.

It is important to consult with the individual to determine the most appropriate auxiliary aid or service, because the individual with a disability is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective. Some individuals who were deaf at birth or who lost their hearing before acquiring language, for example, use sign language as their primary form of communication and may be uncomfortable or not proficient with written English, making use of a notepad an ineffective means of communication.

Individuals who lose their hearing later in life, on the other hand, may not be familiar with sign language and can communicate effectively through writing. For these individuals, use of a word processor with a videotext display may provide effective communication in transactions that are long or complex, and computer-assisted simultaneous transcription may be necessary in courtroom proceedings. Individuals with less severe hearing impairments are often able to communicate most effectively with voice amplification provided by an assistive listening device.

U.S. Department of Justice, Civil Rights Division, Disability Rights Section

The ADA and City Governments: Common Problems

(Found at: http://www.usdoj.gov/crt/ada/comprob.htm)

Issue: Effective Communication

Common Problem:

City governments often fail to provide qualified interpreters or assistive listening devices for individuals who are deaf or hard of hearing at public events or meetings. In addition, city governments often fail to provide materials in alternate formats (Braille, large print, or audio cassettes) to individuals who are blind or have low vision.

Result:

Individuals who are deaf or hard of hearing are unable to participate in government- sponsored events or public meetings and unable to benefit from city programs and services when they are not provided with appropriate auxiliary aids and services. Likewise, people who are blind or have low vision are unable to benefit from city government services when printed materials are the only means of communication available.

Requirement:

Title II requires that city governments ensure that communications with individuals with disabilities are as effective as communications with others. Thus, city governments must provide appropriate auxiliary aids and services for people with disabilities (e.g., qualified interpreters, notetakers, computer-aided transcription services, assistive listening systems, written materials, audio recordings, computer disks, large print, and Brailled materials) to ensure that individuals with disabilities will be able to participate in the range of city services and programs. City governments must give primary consideration to the type of auxiliary aid or service that an individual with a disability requests. The final decision is the government's.

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the length and complexity of the communication involved and the needs of the individual. For example, sign language interpreters are not required for all interactions with people who are deaf or hard of hearing. Employees can often communicate effectively with individuals who are deaf or hard of hearing through standard written materials and exchange of written notes. For simple transactions like paying bills or filing applications, these methods may be sufficient. For more complex or extensive communications, however, such as court hearings, public meetings, and interrogation by police officers, interpreters or assistive listening systems are likely to be necessary. (Boldface added for emphasis.)

City governments are not required to take any actions that will result in a fundamental alteration or in undue financial and administrative burdens. 28 C.F.R. §§ 35.160-35.164.

US DOJ CORE/technical assistance letters.

(Found at: http://www.usdoj.gov/crt/foia/tal641.txt)

SEP 14 1995

The Honorable Rick Santorum United States Senator Suite 250 Landmarks Building One Station Square Pittsburgh, Pennsylvania 15219

Dear Senator Santorum:

This is in response to your inquiry on behalf of your constituent, Mr. William J. Spagnol, regarding closed captioning of local government meetings. Mr. Spagnol wishes to know the obligations of municipalities to provide closed captioning for the broadcast of local government meetings on public access television channels.

Section 35.160(a) of the Department of Justice's regulation implementing title II of the Americans with Disabilities Act of 1990 (ADA) requires that a public entity take appropriate steps to ensure that communications with members of the public with disabilities are as effective as communications with others. (Boldface added for emphasis.) Section 35.160(b) requires the furnishing of appropriate auxiliary aids and services in order to afford individuals with disabilities equal access to communications and requires that primary consideration shall be given to the requests of individuals with disabilities in determining what type of auxiliary aid or service is necessary. Auxiliary aids and services, as defined in section 35.104, may include open or closed captioning of video presentation.

Audio portions of television and videotape programming produced by public entities are subject to the requirement to provide effective communication for individuals with hearing impairments. (Boldface added for emphasis.) Closed captioning of such programs is sufficient to meet this requirement. Please note, however, that the obligation to provide effective communication does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of its services, programs, or activities, or in undue financial and administrative burdens.

I hope this information is helpful to you in responding to your constituent.

Sincerely, Deval L. Patrick Assistant Attorney General Civil Rights Division

(From National Association for the Deaf website, at: http://www.nad.org/infocenter/infotogo/legal/ada2.html)

Responsibilities of State and Local Government Agencies Under Title II of the ADA

Deaf and hard of hearing people are entitled to effective communication with state and local government agencies. Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. ŠŠ12131-12134, forbids discrimination by any public entity. This federal law applies to all types of state and local government agencies, including courts, schools, social service agencies, legislatures, commissions and councils, recreational facilities, libraries, and state/county/city departments and agencies of all kinds. It applies to activities that are administered directly by government agencies, and to activities that are carried out by private subcontractors.

The U.S. Department of Justice has issued regulations explaining the requirements of that Act,

28 C.F.R. Part 35, 56 Fed. Reg. 35694 (July 26,1991) (U.S. Department of Justice Final Rule: Nondiscrimination on the Basis of Disability in State and Local Government Services).

Under the ADA, local and state agencies are required to give equal access and equally effective services to people with disabilities. 28 C.F.R. 35.130. They may not deny people an opportunity to participate in their programs, or give them an opportunity that is less effective than the opportunity given to others. Often, the public entity must provide qualified interpreters, TTYs, visible warning devices, or captioned materials and other auxiliary aids to ensure effective communication with deaf and hard of hearing people. The Department of Justice regulation specifically states:

- (a) A public entity shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.
- (b)(1) A public entity shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.
- (2) In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

28 C.F.R. Š35.160 (emphasis added).

There are many types of auxiliary aids and services that may be necessary for effective communication. Furthermore, an auxiliary aid that is effective for one person might not be effective for another person. The Department of Justice regulation defines the term "auxiliary aid" comprehensively:

[q]ualified interpreters, notetakers, computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons [TTY's], videotext displays, or other effective methods of making aurally delivered

materials available to individuals with hearing impairments.

28 C.F.R. 35.104.

The appropriate auxiliary aid depends on many factors, such the type of communication used by the individual and the situation in which communication occurs. An auxiliary aid that is appropriate for one person, or in one context, may be useless in another setting or for a person with a different type of hearing loss.

The individual with disabilities should be deferred to in the choice of what auxiliary aid or service is appropriate:

In determining what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.

28 C.F.R. Š35.160(b)(2).

The Analysis of the ADA regulation states:

The public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice. This expressed choice shall be given primary consideration by the public entity. . The public entity shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would [constitute an undue burden].

56 Fed. Reg. at 35711, 35712. The deaf individual's own assessment of the necessary type or level of service is entitled to "primary consideration."

For a deaf person who relies on sign language, the ADA usually requires provision of qualified sign language interpreter services when that service is needed to ensure effective communication. The U.S. Department of Justice has defined "qualified interpreter", for purposes of Title II, to mean:

. . . an interpreter who is able to interpret effectively, accurately and impartially both receptively and expressively, using any necessary specialized vocabulary. 28 C.F.R. 35.104. Although the definition does not require "certified" interpreters, it does require interpreters with the necessary skill to interpret accurately in the particular context.

The agency may not charge the individual for providing auxiliary aids and services.

If services are available by telephone, the agency must either have a TTY device, and/or accept and make telephone calls using a relay service. The goal of having the TTY equipment and using relay service is to provide equally effective telephone services to deaf individuals.

In addition to providing auxiliary aids and services, public entities must modify their policies and practices when necessary to prevent discrimination. For example, a facility with a "no pets" requirement must modify that requirement to permit a blind or deaf person to use an assistance animal.

In a few judicial regions, courts have held that Title II of the ADA is not constitutional as applied to state government agencies. This issue is currently being litigated in a number of federal courts of appeal and federal district courts, as well as cases before the U.S. Supreme Court. Any person bringing a claim under Title II of the ADA should consult with a local attorney to determine the current status of the law in your state.

This material was prepared by the National Association of the Deaf Law Center. It is intended solely as informal guidance. This material is not legal advice. For technical assistance and additional information about how laws against discrimination apply to you, contact the NAD Law Center, a local attorney, or an enforcement agency.

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez ?

City Manager

Subject: REFERRAL TO THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE

- DISCUSSION REGARDING THE PLACEMENT OF A COMMEMORATIVE PLAQUE IN THE VICTORY GARDEN, HONORING THE LATE JOSEPH

VILLARI.

ADMINISTRATION RECOMMENDATION

The Administration recommends referring this item to the Neighborhood/Community Affairs Committee.

BACKGROUND

Joseph Villari, a long-time Miami Beach resident and community activist, passed away on May 4, 2004, due to complications resulting from a traffic accident. On account of his extensive involvement in addressing quality-of-life issues affecting the South Pointe neighborhood, for his years of service on the South Pointe Advisory Board and recent appointment to the Marine Authority, the Administration recommends placing a commemorative plaque in his honor. Since Joseph Villari was a World War II veteran, the Administration recommends placing the plaque in the Victory Garden. A Miami Herald article regarding Joseph Villari's tragic death and contributions he made to the South Pointe area is included with this memorandum.

ANALYSIS

In order to proceed, the Administration will work with members of community that were close to Joseph Villari, to design and word the plaque and determine a suitable presentation platform (park bench, pedestal or wall-mount). Upon review and approval by Design Review staff, the proposal shall be presented to the Neighborhood/Community Affairs Committee for its approval and recommendation to the City Commission. The proposal then goes to the Arts in Public Places (AiPP) Committee to determine the appropriate location for the plaque.

JMG/CMC/KOB
T:AGENDA\2004\Juli0704\Consent\JoeVillariPlaque.doc
Attachments

Agenda Item <u>CYA</u>

Date 7-7-04

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Herald.com

Posted on Thu, May. 13, 2004

MIAMI BEACH

Life filled with passion ends in crash

Joseph Villari, a quiet yet passionate voice among the city's cadre of activists, was killed in a car crash last

week.

BY NICOLE WHITE nwhite@herald.com

In the early 1990s, before the South Pointe neighborhood got hot, trash peppered the sidewalks and street along the 200 block of Collins Avenue, and noise trailed from nearby club Amnesia. But Joseph Villari saw a neighborhood ripe with hope.

Though the neighborhood south of Fifth Street was decayed, Villari, who had just moved from Rhode Island, fell in love, said his wife, Benita Villari.

"I sat on my patio every day for a year and cried about our move to this neighborhood," she said, but Joe was more optimistic: ``He said, `Honey, this our new home. We're going to do something about the way this place looks."

And he did. Since their 1991 move, Villari quietly yet passionately tackled a swath of issues that affected his neighborhood.

Villari died May 4 after police say a car ran a stop sign and hit Villari's car at the intersection of Lenox Avenue and 10th Street. He was 80.

His death stunned family, friends and public officials. "It's a sad loss for the community," said Mayor David Dermer.

Dermer first met Villari during the tempestuous 1997 Save Miami Beach campaign, in which a band of citizens rallied to fight the highrise condominium plans of developer Thomas Kramer.

"He didn't have a very aggressive manner to him. Instead he tempered his remarks with some humor," said Dermer. 'He was well-liked and loved by everybody who came in contact with him."

In addition to his role in Save Miami Beach, Villari was among the group of residents to press for fines of businesses that violate the city's noise ordinance, including Opium Garden (formerly Amnesia). He served as president of the Terrace View Towers Condominium Association since 1992, and lobbied the city to turn a neighboring parking lot into a community garden.

Dermer recently appointed Villari to the city's Marine Advisory Board. And when residents from his condominium at 240 Collins Ave. took to dumping unwanted clothing and furniture in the building's dumpster, Villari, set up a monthly arrangement to have the items picked up by the Miami Rescue Mission, a community outreach project that helps the homeless.

Villari survived a quadruple bypass surgery eight years ago, making his fatal accident even more heart-wrenching, said his family members.

"It's disturbing, life meant so much to my dad to have him taken out like this is hard to accept," said his son Frank Villari.

According to the accident report, Sherna Brody, 62, of Miami, was heading northbound on Lenox Avenue when she ran the stop sign at the intersection of 10th Street and crashed into the driver's side of Villari's car. His car spun out of control and crashed into a nearby tree. Villari later died of internal injuries at South Shore Hospital.

Brody has not been charged, but the crash and Villari's death remain under investigation, said Miami Beach police

spokesman Wayne Jones.

Benita Villari first met Joe Villari inside a hotel lobby in Rhode Island some four decades ago. She said she knew she was smitten when she asked him for a light for her cigarette and he responded, ``I don't smoke, but I wish I did today."

"He took my breath away," said Benita Villari, smiling at the memory. ``He looked like Omar Sharif. I was mesmerized."

The two were married for 38 years and have five children.

After their move to Miami Beach the World War II veteran, a man defined by his passion for work, sailing and an unbending love for the New York Giants, suddenly added community activism to his list of passions, his family said.

Villari's passing was mourned by the men and women who make up the Tuesday Morning Breakfast club, an informal group of activists who meet weekly over breakfast at Puerto Sagua restaurant on Collins Avenue to discuss ways to improve the city.

On Tuesday, the group invited Police Chief Donald De Lucca to its weekly gathering. Among the topics discussed, said member Mike Burke, was how traffic hazards like that which claimed Villari can be avoided. "We do intend to push forward and get something positive from this tragedy," Burke said.

His death is especially painful, said Benita Villari, because the couple was set to leave for a month-long stay in Europe.

"I lost a wonderful man, my partner," said Benita Villari. ``I still don't believe he's not coming home."

In lieu of flowers, the family asks that contributions be made to the Miami Rescue Mission, 2010 NW First Ave., Miami, FL 33127.

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge

Jorge M. Gonzalez

City Manager

Subject: REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE

MEETING OF JUNE 1, 2004.

A meeting of the Finance and Citywide Projects Committee was held on June 1, 2004 at 2:20 p.m. in the City Manager's Large Conference Room.

Finance and Citywide Projects Committee Members in attendance included: Chairperson Commissioner Jose Smith, Vice Chairperson Commissioner Richard L. Steinberg, and Commissioner Matti Herrera Bower.

City staff was represented by: Jorge M. Gonzalez, City Manager; Patricia D. Walker, Chief Financial Officer; Christina M. Cuervo, Assistant City Manager; Robert Middaugh, Assistant City Manager; Kevin Smith, Parks and Recreation Director; Tim Hemstreet, Capital Improvement Projects Director; Alex Rolandelli, Senior CIP Coordinator; Fred Beckmann, Public Works Director; Robert Halfhill, Assistant Public Works Director; Raul Aguila, First Assistant City Attorney; and, Manny Marquez, Finance Manager.

Others in attendance included: Doug Tober, SMG; A.C. Weinstein and Mitchell Pellecchia, representing the Sun Post; Dan Ricker, Watchdog Report; Nestor Fernandez, URS Corp.; Jose R. Vega, TCG; Anthony Mandatta, Miami Beach Golf Club; Mauricio Salazar, Draguisa Gomero, and Xavier A. Fernandez, representing Regosa Engineering; Graham Penn, Bercow and Radell; Mark Buechele, Esq.; Ceyda Buechele; Paul Buechele; and, Joe Fontana.

NEW BUSINESS:

1. Discussion regarding a proposed amendment of Miami Beach Golf Club User Fees.

Action

The Committee moved the item to the full Commission, recommending adoption of the proposed rates.

Parks and Recreation Director Kevin Smith (Mr. Smith) introduced and summarized the item. Mr. Smith stated that the Administration is seeking to adjust user fees at the Miami Beach Golf Club. Mr. Smith further stated that the new proposed rates are minimal increases that compare favorably when compared to what other comparable golf courses of similar quality are charging for use of their facilities.

Agenda Item_*C6A*

Date 257-04



Chairperson Commissioner Jose Smith (Commissioner Smith) asked if the proposed rate increases have been brought to any oversight committee for review.

Mr. Smith stated that proposed rate increases have been approved and recommended by the City's Golf Advisory Board and the City's golf courses management company, Professional Course Management II, Ltd (PCM).

Mr. Smith stated that the proposed rate increases, with an effective date of October 1, 2004, would result in a \$4.00 increase in the resident winter season rate and a \$5.00 increase in the resident summer rate. Mr. Smith further stated that the increase would raise the tourist winter season rate by \$25.00 and the tourist summer season rate by \$10.00. Mr. Smith added that the increase in additional revenue would be approximately \$250,000 annually.

Commissioner Smith asked how the additional revenue will be used?

Mr. Smith stated that this past year, the Miami Beach Golf Club was able to generate sufficient revenues to cover its operational expenditures and annual debt service. Mr. Smith further stated that the additional revenue would be used to pay for increased operational costs and to fund a capital reserve for future capital improvement needs. Mr. Smith added that some of the capital improvements would include: clubhouse improvements, landscaping enhancements, driving range turf, and equipment purchases.

Vice Chairperson Commissioner Richard L. Steinberg stated that the schedules presented in the agenda package display a significant drop-off in the number of rounds played this year by residents at the golf club; as well as resident rounds played as a percentage of total rounds played. Commissioner Steinberg asked for an explanation of these variances.

Mr. Smith replied that the fiscal year 2004 numbers are as of April 30, 2004 and the fiscal year 2003 numbers are year-end totals. Mr. Smith added that after the summer season of play there should be a significant increase in the number of rounds played by residents, as resident play traditionally increases during the summer months after the reduction in price once the peak season is completed. Mr. Smith further stated that residents overall are happy with the quality and service of the golf club and that the overall satisfaction of the club will only improve once the clubhouse is completed and opened.

Commissioner Matti Herrera Bower stated that once the summer season is completed, she would like to see the fiscal year end totals for the number of rounds played at the golf club.

Commissioner Steinberg stated that local cable television has been airing advertisements for the Crandon Park Golf Club. Commissioner Steinberg asked whether the City was contemplating any advertisements to lure golfers to the Miami Beach Golf Club.

Mr. Smith replied that the City is currently preparing a commercial as a form of advertisement for the golf club.

Commissioner Steinberg asked what effect the opening of the clubhouse would have on the golf club.



Mr. Smith stated that the opening of the clubhouse would be an added amenity to the golf club. Mr. Smith also stated that the clubhouse would be generating further revenue through the operation of a restaurant and a pro-shop.

Commissioner Bower asked what was being done to bring hotel business to the golf club.

Mr. Smith stated that aside from the preparation of the golf club commercial, golf club staff routinely visits hotels and distribute brochures and information about the golf club. Mr. Smith added that PCM employed a Director of Marketing dedicated to luring business to the golf club. Mr. Smith stated that the golf club serves as an amenity to the hotels and many hotels advertise the golf club in their own advertising campaigns.

Mr. Smith also stated that the Miami Beach Golf Club was ranked 18th by Golf Digest as the "Best New Golf Course in the United States."

The Committee moved the item to the full Commission, recommending adoption of the proposed rates.

2. Discussion on policy issues regarding how the City deals with land rights, and how to ensure the City receives fair compensation for the abandonment of easements.

ACTION

The Committee directed the Administration to draft a resolution adding the issue of selling easements and City ROW for fair market value to the annual list of legislative priorities.

The Committee further requested that the Administration treat each applicant on a case-by- case basis; instructed the Administration that any application in question must have an overwhelming reason for the request; and, instructed the Administration to continue to notify all abutting property owners of specific requests as required by ordinance.

First Assistant City Attorney Raul Aguila introduced and summarized the item.

Chairperson Commissioner Jose Smith asked whether the Commission needed to rule on any particular applications.

Mr. Aguila stated that "yes" there were several applications in the pipeline, which were originally approved in concept by the Commission, requesting the vacation of City owned Right-of-Way (ROW) which are currently dedicated to the public.

Mr. Aguila also stated that the question is whether or not the City can charge fair market value for the exchange of the vacation of an abutting ROW to a property.

Mr. Aguila stated that after extensive legal research, existing case law dictates that the City is not entitled to sell public ROW; however is entitled to, as a result of existing City policy, to charge a \$5,000 application fee. Mr. Aguila added that the City has the authority to vacate an easement, but cannot sell an easement because the City does not own



easements. Mr. Aguila stated that the easements are held in trust for the benefit of the public.

Public Works Director Fred Beckmann described a few of the pending applications for vacation of easements. Mr. Aguila added that whether or not to vacate any particular easement is a discretionary decision for the Commission.

Commissioner Smith stated that policy and criteria needed to be established for the vacation of easements.

City Manager Jorge M. Gonzalez stated that the City is receiving a considerable number of requests for the vacation of several easements. Mr. Gonzalez added that once the City has vacated an easement, the City cannot obtain the easement back.

Vice Chairperson Commissioner Richard L. Steinberg asked whether or not an applicant for the vacation of an easement could sue the City if the City voted not to grant the request?

Mr. Aguila replied that if the City were to deny an applicant request, the applicant couldn't compel the City to give up an easement through the courts.

Commissioner Steinberg stated that the City could put a moratorium on applications for the granting of City held easements and ROW while the issue of selling easements and City ROW for fair market value is added to the list of legislative priorities. Commissioner Steinberg further added that the City could seek an endorsement of this legislative priority from the League of Cities and the League of Counties.

Commissioner Steinberg also stated that case law could be changed through legislative acts. Commissioner Steinberg added that an easement may not have any value to the City, but may be very valuable to the abutting property.

Mr. Gonzalez stated that there are two issues at hand: the vacation of City ROW and the vacation/abandonment of easements.

Mr. Aguila stated for the record, that the City does not voluntarily seek to vacate or abandon any easements, all requests have been applicant driven. Mr. Aguila additionally stated that two requests for the vacation of City easements will come before the Commission in the near future.

Commissioner Steinberg stated that just because the City cannot sell a City easement, the City should not feel compelled to grant a request for the vacation of an easement.

Commissioner Matti Herrera Bower stated that the Commission should keep in mind what is in the best interest of the Public. Commissioner Bower stated that the easements are not there for the City to make money; they are there for a public purpose.

Attorney Mark Buechele, representing the owners of the property situated at 460 West 62nd Street, spoke regarding the owner's particular application and situation. Mr. Buechele stated that the City maintains an unnecessary easement on said property. Mr. Buechele added that the easement runs directly through the middle of the property and is preventing the property owners from remodeling and expanding their home.

Mr. Buechele further stated that the easement is serving no purpose to the City, but if the abandonment of the easement were granted, the City would obtain additional revenue through the collection of property taxes as the assessed value of the property would rise after the remodeling and expansion of the property owners existing home. Mr. Buechele added that the property owners have paid their \$5,000 application fee under the existing guidelines and now everything is being changed midstream.

Mr. Aguila stated that the Commission makes a case-by-case determination on abandonment of easements cases and that this particular case is different from the vacation of City ROW.

Mr. Beckmann stated that the City has no current use for the easement in question and that this application appears to be a valid request. Mr. Beckmann added that under the application the City would still maintain a 10-foot easement on the side of the property.

Mr. Aguila added that when vacating easements, applicants are responsible for the costs of relocating any utilities.

Commissioner Bower stated that by granting the vacation of certain easements which appear to not be needed by the City, the City could actually be affecting the quality of life of the citizens by destroying their view if anything is built or placed on a vacated easement.

Commissioner Steinberg added that if the property owner is going to be receiving a benefit from the City, the Citizens of Miami Beach should be compensated.

The Committee directed the Administration to draft a resolution adding the issue of selling easements and City ROW for fair market value to the City's annual list of legislative priorities.

The Committee further requested that the Administration treat each applicant on a case-bycase basis; instructed the Administration that any application in question must have an overwhelming reason for the request; and, instructed the Administration to continue to notify all abutting property owners of specific requests as required by ordinance.

3. Discussion regarding Certification of Default of Regosa Engineering on the Normandy Isle Park and Pool project.

ACTION

No action necessary, status update was given, item will be brought to the June 9, 2004 Commission Meeting.

Capital Improvement Projects Director Tim Hemstreet introduced and summarized the item. Mr. Hemstreet stated that the Administration is here to provide the Finance and Citywide Projects Committee an opportunity to discuss the pending Certification of Default of Regosa Engineering on the Normandy Isle Park and Pool Project before the June 9, 2004 Commission Meeting.

Chairperson Commissioner Jose Smith cautioned those present that there is a chance this item may end up in litigation.

Mr. Hemstreet stated that present at today's meeting are: representatives from Regosa Engineering, project contractor; the Corradino Group, project architect; URS Corp., program manager and project agent; and, City of Miami Beach Capital Improvements Office Staff, project manager.

Mr. Hemstreet summarized the three items contained in the agenda:

- Notice of Default from the City of Miami Beach to Regosa Engineering
- Letter of Response from Regosa Engineering to Miami Beach
- Certification of Default from the City of Miami Beach to Regosa Engineering

Mr. Hemstreet stated that by the June 9, 2004 Commission Meeting, the Administration will provide the Commission a comprehensive summary outlining the process for a Certification of Default.

Mr. Hemstreet further stated that the City has given Regosa Engineering numerous opportunities to remedy their defaults and improve their performance on the project, but efforts have not produced positive results.

Mr. Hemstreet listed and gave examples of some of the deficiencies by Regosa Engineering:

- failure to follow the contract documents, i.e. the approved structural drawings;
- failure to demonstrate that the current labor force has the ability to perform both the needed remedial work on rejected items and keep up its own construction schedule;
- failure to provide submittals in a timely and accurate manner (approved shop drawings, product approvals, and payment applications);
- failure to schedule required inspections;
- poor record keeping and failure to maintain required project documents at the job site;
- issues with quality of workmanship;
- little regard for delays in construction schedule;
- failure to abide to housekeeping and safety related issues.

Mr. Hemstreet stated that the Administration, in the best interest of the City, is requesting to replace the contactor and proceed under an emergency situation with a waiver of competitive bidding for the completion of the project.

Commissioner Matti Herrera Bower asked if Regosa Engineering is under contract with the City for any other construction project.

Mr. Hemstreet replied that Regosa Engineering is not under contract with the City for any other project, but has worked as a sub-contactor at the North Shore Youth Center.

Mr. Hemstreet stated that Regosa Engineering was contracted through a Request for Qualifications Process where they had an opportunity to review the construction documents before they began work on the project; yet, now they are alleging that the construction documents are defective.

Commissioner Smith asked about the allegations made by Regosa Engineering that the construction documents were defective.

Mr. Hemstreet stated that the construction plans are constructible, as is evident with the approval of building permits.

Mr. Hemstreet also stated that he categorically denies allegations made by Regosa Engineering accusing the City of discrimination. Mr. Hemstreet further stated that the City has bent over backwards trying to work with Regosa Engineering by giving the contractor sufficient time to remedy deficiencies.

Mr. Hemstreet added that the Administration would like to invoke the performance bond issued by St. Paul Guardian Insurance Company, as a result of the contractor's default under the contract.

Commissioner Smith asked whether the dispute between the City and Regosa Engineering was eligible for arbitration.

Mr. Hemstreet replied that the contract for the construction of the Normandy Isle Park and Pool Project is one of the older types of contracts which contain no arbitration position so it would conceivably proceed to litigation.

Commissioner Smith asked how much it would cost to finish the project with a new contractor.

City Manager Jorge M. Gonzalez replied that the Administration may recommend a JOC contract for completion of the project in order to complete the work in a timely manner; and, after approximately 45 days, the City could have an estimate regarding the costs associated with completion of the project.

Representatives from Regosa Engineering were given an opportunity to address the Committee. Regosa Engineering requested that the City issue a continuance at the June 9, 2004 Commission Meeting, as their attorney of record is currently out of the country and will not have ample time to address the Certification of Default.

Mr. Mauricio Salazar, representative from Regosa Engineering, stated that the building plans for the project are defective and have led to many delays in the project, as is evident in their 100 plus Request for Information (RFI).

Commissioner Smith stated that if Regosa Engineering is planning on asking for the consideration of a continuance pertaining to the Certification of Default, such request should be made in writing.

4. Discussion regarding a Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, authorizing the Mayor and City Clerk to approve an increase to the community benefit fund surcharge on tickets sold at the Jackie Gleason Theater from \$1.00 to \$1.50, and to reduce the subsidy percentage paid from the Community Benefit Fund on senior and student discounted tickets from 80% to approximately 71%.

ACTION

The Committee moved the item to the full Commission, recommending an increase to the community benefit fund surcharge on tickets sold at the Jackie Gleason Theater from \$1.00 to \$1.50, and the reduction of the subsidy percentage paid from the Community Benefit Fund on senior and student discounted tickets from 80% to approximately 71%.

Convention Center General Manager Doug Tober introduced and summarized the item. Mr. Tober stated that the Administration is recommending an increase to the community benefit fund surcharge on tickets sold at the Jackie Gleason and a reduction of the subsidy percentage paid from the Community Benefit Fund on senior and student discounted tickets.

Mr. Tober stated that this item was originally reviewed by the Finance & Citywide Projects Committee at its meeting of June 17, 2003, when the Committee voted to retain the current parameters of subsidy and surcharge and additionally directed the Administration to limit the sale of subsidized tickets per performance from 80 to 60.

Mr. Tober stated that the Finance & Citywide Projects Committee then subsequently reviewed this item again at its January 28, 2004. At that time, trends showed the fund remaining fairly steady.

Mr. Tober additionally stated that strong demand for the senior program tickets, coupled with lagging general ticket sales during the current year have dropped the fund balance to approximately \$70,000 as of April 30, 2004. Mr. Tober added that if no changes to the program's subsidy and surcharge mechanisms are made, current projections put the Community Benefit Fund Balance at \$52,000 at the end of this current fiscal year.

Mr. Tober stated that because of concerns over the declining balance of the fund, and in an effort to insure the continuation of the program, the Convention Center Advisory Board approved a recommendation to revise the subsidy of these tickets from 80% to approximately 71%, and to raise the surcharge on tickets from the current \$1.00 per ticket up to \$1.50 per ticket. Mr. Tober additionally stated that these efforts should reverse the current trend of the decreasing fund balance.

The Committee moved the item to the full Commission, recommending an increase to the community benefit fund surcharge on tickets sold at the Jackie Gleason Theater from \$1.00 to \$1.50, and the reduction of the subsidy percentage paid from the Community Benefit Fund on senior and student discounted tickets from 80% to approximately 71%.

The Committee additionally expressed their concerns with allegations that discounted senior tickets, subsidized by the Community Benefit Fund, were being resold for profit by individuals abusing the system. The consensus of the Committee was for Administration to review and implement an operational policy that would curtail the abuse of subsidized tickets used for resale.

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

Date: July 7, 2004

From:

Jorge M. Gonzalez

City Manager

Subject:

REPORT OF THE JUNE 7, 2004 - LAND USE AND DEVELOPMENT

COMMITTEE MEETING

A meeting of the Land Use and Development Committee was held on June 7, 2004 at 4:00 p.m. in the City Manager's Large Conference Room. The following were in attendance: Vice-Mayor Saul Gross and Commissioners: Luis R. Garcia, Jr. and Matti Herrera Bower.

1. PRESENTATION AND DISCUSSION REGARDING THE FINAL REPORT ON THE MAYOR'S BLUE RIBBON PANEL ON STRUCTURAL INTEGRITY OF HISTORIC BUILDINGS. Referred at the March 17, 2004 City Commission Meeting.

The Committee heard a presentation from the Chair of the Ad Hoc Committee. It was decided that the Administration should attempt to re-write the section of the Code that deals with the structural neglect of buildings and bring forth an amendment through the Planning Board. (Note: any proposed amendment will also be reviewed by the Historic Preservation Board). The Committee also discussed potential changes to the recertification process and also expressed their general consent on the proposed changes as outlined by the Building Department.

2. AN ORDINANCE REVISING PARKING LOT SETBACK REQUIREMENTS IN THE TH AND RM-1 RESIDENTIAL DISTRICTS WHEN THERE IS AN APPROVED STREET IMPROVEMENT PLAN THAT INCORPORATES A PUBLIC-PRIVATE PARKING AGREEMENT. Referred at the May 26, 2004 City Commission Meeting.

The Committee agreed with the proposed amendment in concept and referred it to the Planning Board. The Committee also suggested adding the RM-2 district to include the proposed Gilbert Fein district. The Legal Department suggested a number of comments and non-substantive changes to the ordinance that will be reviewed by the Planning Department before it goes to the Planning Board.

It was suggested that there might be a problem with spending G.O. Bond money on private property - CIP will follow up.

The format and content of the "public-private parking agreement" was left up to the Administration and the Legal Department to work out the details, and does not need to be spelled out in the ordinance.

Agenda Item <u>CGB</u>

Date 7-37-09

July 7, 2004 Commission Memorandum Land Use and Development Committee – June 7, 2004 Page 2 of 2

The Committee agrees in concept with allowing the private property owner to control the use of the space, subject to any legal impediments.

3. DISCUSSION REGARDING THE ISSUE OF WHETHER THERE SHOULD BE PROPERTY OWNER APPROVAL (FOR SINGLE-FAMILY DISTRICTS) FOR THE CREATION OF A CONSERVATION DISTRICT BEFORE IT IS APPROVED BY THE CITY COMMISSION. Referred at the May 26, 2004 City Commission Meeting.

The Land Use and Development Committee reviewed a flow chart prepared by Planning staff delineating the initiation and approval process of Neighborhood Conservation Districts and through public and committee discussion agreed that the process as defined in the first reading enabling ordinance does involve the substantial public notice and hearings required to achieve adequate neighborhood representation. The issue should be discussed in greater detail with the full Commission.

4. DISCUSSION REGARDING THE HISTORIC PRESERVATION BOARD'S REVIEW OF PUBLIC IMPROVEMENTS UPON RIGHTS-OF-WAY LOCATED WITHIN HISTORIC DISTRICTS. Referred at the May 26, 2004 City Commission Meeting.

The Committee instructed the Administration that every attempt should be made to get the projects reviewed by the regulatory boards after the BODR. The Legal Department will prepare an ordinance, at an earlier request by the Commission, that address the review of projects in the right-of-ways located in historic districts. The Legal Department also discussed the voting requirements for the Commission to consider certificates of appropriateness for demolition; an ordinance will be prepared that addresses this issue.

JMG/CATC/JGG/rar
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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

REPORT OF THE GENERAL OBLIGATION BOND OVERSIGHT

COMMITTEE MEETING OF JUNE 7, 2004

The General Obligation Bond Oversight Committee ("Committee") met on June 7, 2004. At the meeting, the Committee considered the following issues.

The Committee reviewed the minutes from the May 3, 2004 Joint General Obligation Bond Oversight Committee and Budget Advisory Committee meeting, as well as the minutes from the May 3, 2004 General Obligation Bond Oversight Committee meeting. Both sets of minutes were passed.

CHANGE ORDERS

The Administration informed the Committee that two new change orders had been approved since the last meeting. A list of the change orders approved to date is attached as "Exhibit A".

RECOMMENDATION TO CITY COMMISSION

The Administration asked the Committee to consider an amendment to the Architecture/Engineering agreement with EDAW on the Oceanfront Neighborhood project to expand the scope of the project. EDAW would be asked to create a pilot project for the Indian Creek Greenway project within the boundaries of the Oceanfront Neighborhood project. Tasks would include a topographical survey and a hydrographical survey that are needed in order to create a concept plan. The fee negotiated between the City and EDAW was \$139,703.54. The Committee recommended that the City Commission amend the City's agreement with EDAW to include the Indian Creek Greenway pilot project for the negotiated amount.

PROJECT STATUS REPORT

The Administration informed the Committee that the Contractor has begun preliminary site work on the **Fire Station No. 2** site to prepare for the construction of the new Fire Station. The Fire Station No. 2 facility will begin construction after completion of the Water Tanks portion, which is expected soon. After the new Fire Station No. 2 facility is complete, the renovation of the historic building will begin.

Agenda Item <u>C6C</u>
Date 357-09

City Commission Memorandum
July 7, 2004
Report of the General Obligation Bond Oversight Committee Meeting of June 7, 2004
Page 2 of 2

The Committee was told that the permit review process for the **Fire Station No. 4** project had not yet been completed. The project is being priced for construction by one of the City's Job Order Contracting (JOC) contractors. Demolition of the existing station will begin once the permit is issued. The demolition commencement is anticipated prior to the end of June, with construction of the new Fire Station anticipated to start approximately 30 days later.

The Administration informed the Committee that the City placed the contractor, Regosa, in default on the **Normandy Isle Park and Pool** project. The Committee was presented with a draft of a City Commission item, to be heard by the City Commission at its June 9, 2004 meeting, accepting the certification of default and removing the prosecution of the work from the hands of Regosa. The Administration informed the Committee that the deletion of all scope other than the pool has been removed from the contract with Regosa. This was done through a unilateral change order that the Contractor would not execute. The deleted scope (soccer field, multi-purpose courts, fencing, drainage and walkways within the park) will be priced and built by a JOC contractor.

INFORMATIONAL ITEMS

The updated calendar of community meetings was presented to the Committee, but not reviewed during the meeting.

The Administration informed the Committee of an appropriation of \$60,678.62, of which \$39,530.52 was from General Obligation Bond fund interest earnings, for the close out of the Marseille Drive Streetscape Project. This appropriation was made by the City Commission at their May 26, 2004 meeting to fund additional services for the Architect/Engineering firm that were approved at the close out of the project.

The Administration informed the Committee of an appropriation of \$120,000 from the 1995 Parks Bond fund interest earnings for the North Shore Park and Youth Center. This appropriation was made by the City Commission at their May 26, 2004 meeting to provide additional funding for the project due to the exhaustion of the original project contingency.

The Administration updated the Committee on the status of the 42nd Street Streetscape project. There had been complaints regarding nuisance dust, which has been mitigated by the construction of one travel lane. The project construction should be complete within a few weeks.

Attachment

JMG/RCM/T/H/KLM

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							% of	Contract		
		Date of	Original Contract	Change Order	Change Order Revised Contract	Remaining	Project Complete	Amount Remaining to	*	
Project	# 8	Approval	Amount		Amount	Contingency	(approx.)	be Paid	Days	Purpose
Normandy Isle Park and Pool	ဖ	12/3/03	\$2,445,786.00		\$2,461,650.98	\$37,926.00	35%		5	P&R Requested modifications and additions to contract.
Normandy Isle Park and Pool	2	1/14/04	\$2,461,650.98	\$23,488.75	\$2,485,139.73	\$37,926.00	35%		0	To install additional floor drains, Demolish & disposal existing Playground, installing P.V.C. for irrigation, Changes along deck level.
Normandy Isle Park and Pool	∞	3/8/04	\$2,485,139.73	\$0.00	\$2,485,139.73	\$37,926.00			53	Additional 53 days to Contract time due to expired pool permits plan re-processing.
Normandy Isle Park and Pool	တ	3/8/04	\$2,485,139.73	\$12,320.41	\$2,497,460.14	\$25,605.59	47%	\$1,214,304.14	0	Installation of additional underground primary and secondary electrical conduits and wiring and relocation of FPL electrical transformer.
Normandy Isle Park and Pool	6	4/8/04	\$2,497,460.14	\$12,270.34	\$2,509,730.48	\$13,335.25	47%	\$1,214,304.14	∞	Revisions to structural scope by addition of collector tank and extension of the pool pump room.
Normandy Isle Park and Pool	-	4/22/04	\$2,509,730.48	(\$143,750.00)	\$2,365,980.48	\$157,085.25	47%	\$1,214,304.14	-10	Removal of Scope of Work: perimeter fence, landscaping and irrigation on the park portion of the Project.
North Shore Open Space Park - Phase II	-	10/15/02	\$361,651.00	\$300.00	\$361,951.00	\$40,265.00	25%		0	Demolish and dispose two (2) existing vita course stations (not included in original scope)
North Shore Open Space Park - Phase II	7	10/28/02	\$361,951.00	\$1,477.00	\$363,428.00	\$38,788.00	28%		0	Installation of 24" sleeves at three locations under the newly installed 15" wide nathway
North Shore Open Space Park - Phase II	ო	11/14/02	\$363,428.00	\$2,642.71	\$366,070.71	\$36,145.29	30%		0	re-grading of the areas of the old guard house and along the existing pathway in order to allow a smoother grade/transition
North Shore Open Space Park - Phase II	4	11/14/02	\$366,070.71	\$199.03	\$366,269.74	\$35,946.26	30%		0	form 79th Street to 81st Striping and addition of 1" of asphalt from 79th Street to 81st Street as a means of reinforcing surfacing for anticinated beavy traffic
North Shore Open Space Park - Phase II	က	5/19/03	\$366,269.74	(\$6,770.40)	\$359,499.34	\$42,716.66	100%	₩	0	Credit for 7,440 square feet of defective asphalt.
North Shore Park and Youth Center	-	4/11/02	\$5,659,357.00		\$5,665,357.00	\$307,168.00	3%			To hire a locator service to locate and identify underground utilities
North Shore Park and Youth Center	7	4/29/02	\$5,665,357.00	\$4,480.00	\$5,669,837.00	\$302,688.00	2%			To dispose of sports lighting poles and selected foundations (Park Portion)
North Shore Park and Youth Center	က	4/29/02	\$5,669,837.00	\$12,086.00	\$5,681,923.00	\$290,602.00	2%			To provide separate electrical meter services for the Tennis Center as requested by the Parks & Rec. Dept. Park Portion
North Shore Park and Youth Center	4	8/5/02	\$5,681,923.00	\$89,776.00	\$5,771,699.00	\$290,602.00	11%		0	different locker construction, alternate door construction and size, alternate wood gymnasium floors and construction of 2 additional tennis courts (originally anticipated). Funded through GO Bond funds
North Shore Park and Youth Center	သ	8/5/02	\$5,771,699.00	\$321,526.00	\$6,093,225.00	\$290,602.00	11%		0	To include sport lighting for the project (originally anticipated). Funded through GO Bond funds reallocated after addition of CDBG funds
North Shore Park and Youth Center	9	8/9/02	\$6,093,225.00	\$61,965.00	\$6,155,190.00	\$228,637.00	15%		0	To provide 6 storm drain retention tanks to meet DEP requirements.

	Purpose	To relocate the and upgrade the existing FPL Transformer	Relocation of 5 pigeon plums as requested by DERM and additional exit lights within the Tennis Center as requested by The Building Department	Additional 2 clay tennis courts for total of 12 courts. Funding came from North Beach Quality of Life/Resort Tax Fund	Cost for stand alone fire alarm system for Tennis Center (\$7,830), credit for changes to main sewer line (-\$2.027.52), and raising top of footing elevation at Youth Center and Comparising (-\$4.400)	Additional existing system (\$1,857) and reconfiguration of storm drainage system (9.590).	Additional data services requested by owner, upgrade of window color, and location of a drain at practice tennis	Additional phone conduit & receptacle (owner request), concrete pad for FPL electric transformer, and structural change to support A/C ducts in Gym north wall	1. Provision of gypsum drywall ceiling for Tennis Center restrooms-\$1,290; 2. Inclusion of Value Eng. Item 16R-\$17,754; 3. Exterior paint color sample -\$237; 4. Removal of trees \$1,881.25; 5. Additional 4" roof drain-\$1,616; 6. Tennis court irrigation line \$3,773; 7. Additional roof insulation-\$1,773.75; 8. Two(2) 2" PVC	access ladder to access the roof \$3,333; 3. Construction of 4 dugouts-\$57,502; 4. Installation of additional strobe lights- \$4,881.	\$12,220 - 2. Addition of 6 area drains on the north side of the Tennis court area to introduce an underground drainage system.	1. Sidewalk addition to provide access to the entry armps south of the building - \$7,075; 2. Addition of sprinkler heads requested by Fire Inspector - \$1,753; 3. Gredit for deletion of stucco at Youth Center West wall - \$1,078). Contract time will be increased 10 days for \$1,078.	Four picket gates at North and South Entrances not shown on contract documents	Install two rain water scuppers and additional roofing at West Entrance. Enclosure of ductwork a gymnasium.
*	Days	0	24	0	108	0	0		0	20	33	0	0	0
Contract Amount	be Paid						İ							
% of Project	(approx.)	18%	30%	38%	20%	20%	%09	55%	75%	75%	75%	75%	85%	85%
Remaining	Contingency	\$207,561.00	\$196,622.00	\$196,622.00	\$195,219.00	\$183,772.00	\$155,224.00	\$148,952.00	\$136,242.00	\$105,273.00	\$81,228.00	\$73,478.00	\$67,259.00	\$47,961.00
Revised Contract	Amount	\$6,176,266.00	\$6,187,205.00	\$6,226,077.00	\$6,227,480.00	\$6,238,927.00	\$6,267,475.00	\$6,273,747.00	\$6,304,215.00	\$6,370,679.00	\$6,394,724.00	\$6,402,474.00	\$6,408,693.00	\$6,427,991.00
Change Order Revise	Amount	\$21,076.00	\$10,939.00	\$38,872.00	\$1,403.00	\$11,447.00	\$28,548.00	\$6,272.00	\$30,464.00	\$66,464.00	\$24,045.00	\$7,750.00	\$6,219.00	\$19,298.00
Original Contract	Amount	\$6,155,190.00	\$6,176,266.00	\$6,187,205.00	\$6,226,077.00	\$6,227,480.00	\$6,238,927.00	\$6,267,475.00	\$6,273,747.00	\$6,304,215.00	\$6,370,679.00	\$6,394,724.00	\$6,402,474.00	\$6,408,693.00
Date of	~.	8/21/02	10/24/02	11/13/02	1/8/03	1/8/03	1/8/03	2/14/03	5/19/03	6/10/03	7/15/03	7/15/03	8/25/03	8/25/03
	# 03	7	∞	တ	10	Ξ	12	13	4	15	91	-	8	19
	Project	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center	North Shore Park and Youth Center

Project	# 03		Original Contract Amount		Revised Contract Amount	Remaining	% of Project Complete (approx.)	Contract Amount Remaining to be Paid	# of Davs	Purpose
North Shore Park and Youth Center	20	4/23/04	\$6,427,991.00	\$17,541.00	\$6,445,532.00	\$30,420.00	%56		162	Credit for Underground Utility Exploration from CO #1 (- \$5,760.00), Provide a 4"diam. Water meter (\$14,420.00), Additional Fire Alarm devices as required by Fire Inspection (\$3,413.00), Sign for South Entrance (\$991.00), Removal of trees from West baseball field (\$3,210.00). Additional 162 day time extension for Phase I only. Net Current Days are for Phase I: 320, Phase II: 61
North Shore Park and Youth Center	21	4/23/04	\$6,445,532.00	\$21,065.00	\$6,466,597.00	\$9,355.00	%26	\$ 794,688.00	5	Interior Paint at Stair 2 (\$1,393.87), Temporary Power Reimburce Paint at Stair 2 (\$1,393.87), Temporary Power Reimburce Valve for Elevator Shaft (\$1,013.73), Electrical Sprinkler Valve for Elevator Shaft (\$1,013.73), Electrical Service SE Field Water Fountain (\$1,902.01), Street Cuts North Entrance (\$4,701.33), Water Fountain Backflow Valve (\$636.69), Landscape Credit (-\$1,441.00), Single Phase 220V for Elevator (\$1,597.72), Restroom Vanities Counter Supports (\$1,454.48), Water Fountain ADA Compliance (\$1,491.69), Job Site Security during FTAA as requested by City (\$4,428.00).
Scott Rakow Youth Center	-	1/16/02	\$2,845,700.00	\$47,300.00	\$2,893,000.00	\$0.00	10%		0	Alternates 1, 2 and 4 for Phasing plan, outdoor rubber
Scott Rakow Youth Center	2	A/A	\$0.00	\$0.00	\$0.00	\$0.00	%0		0	VOIDED
Scott Rakow Youth Center	ო	2/19/02	\$2,893,000.00	\$0.00	\$2,893,000.00	\$0.00	30%		68	89 day time extension
Scott Rakow Youth Center	4	2/19/02	\$2,893,000.00	(\$36,008.00)	\$2,856,992.00	\$0.00	20%		0	Delete elevator and folding partitions
Scott Rakow Youth Center	က	5/21/02	\$2,856,992.00	\$29,700.00	\$2,886,692.00	\$250,000.00	%09		0	Relocate utilities, additional electrical service to ice rink, reporte Rell South underground service
Scott Rakow Youth Center	ဖ	9/24/02	\$2,886,692.00	\$36,008.00	\$2,922,700.00	\$213,992.00	%02		0	Adding back in the elevator and folding partitions
Scott Rakow Youth Center		9/24/02	\$2,922,700.00	\$160,594.77	\$3,083,294.77	\$53,397.23	70%		0	Rerouting storm pipe, additional fire devices and fixtures, repairs to broken water main, remobilization for auger cast piles, paint locker room walls and ceilings, relocation of pedestrian crossing signal, repair of BellSouth lines, repair concrete beams, Zamboni water heater, Water Absorption Tank and monitoring system, rerouting conduit, HVAC unit roof frame, delete basketball court floor replacement work, new foundation for north stairs, modifications to roof and roof structure
Scott Rakow Youth Center	œ	11/8/02	\$3,083,294.77	\$9,306.25	\$3,092,601.02	\$4,166.00 *	80%		0	Installation of louvered door at mechanical room
* Specific costs were paid out change order to the Contractor	aid out	of project c	contingency to FPL,	Bell South, PSI G	eotechnical, Threst	nold Inspector. 7	hese costs	were not paid thro	ugh th	Specific costs were paid out of project contingency to FPL, Bell South, PSI Geotechnical, Threshold Inspector. These costs were not paid through the contractor and therefore would not be a part of a lange order to the Contractor.

Bolded items reflect Change Orders that have occurred since the last General Obligation Bond Oversight Committee meeting.

		Date of	Original Contract	Change Order Revised	Revised Contract	Remaining	% of Project Complete	Contract Amount Remaining to	# of	
Project	# 8	∢I.	Amount	Amount	Amount	Contingency	(approx.)	be Paid	Davs	Purpose
Scott Rakow Youth Center	o	1/8/03	\$3,092,601.02	(\$21,016.08)	\$3,071,584.94	\$25,182.08	85%			Credit for security guard services and ammonia monitoring system. System will be monitored through Fire Alarm panel
Scott Rakow Youth Center	10	1/8/03	\$3,071,584.94	\$11,844.81	\$3,083,429.75	\$13,337.27	85%		0	Electrical wing modifications for existing pool and restrooms; furnish and install new light fixture at entrance; furnish and install new 480v/60amp electrical feeder for new water heater and pump at Zamboni room
Scott Rakow Youth Center	=	2/25/03	\$3,083,429.75	\$2,950.11	\$3,086,379.86	\$110,387.16	85%		0	Work required for fire alarm panel relocation, and addition of strobe and horn for ammonia leak detection device. \$100,000 was added to the project contingency.
Scott Rakow Youth Center	12	4/4/03	\$3,086,379.86	\$10,406.70	\$3,096,786.56	\$99,980.46	85%		0	Relocation of electrical equipment, installation of panic hardware at ice rink entrance doors, and automation of ice rink equipment room fan with ammonia detection panel
Scott Rakow Youth Center	55	6/30/03	\$3,096,786.56	\$39,860.58	\$3,136,647.14	\$60,119.88	%06		0	Installation of new louver and ductwork to maintain fresh air intake at existing mechanical room, installation of new emergency exit lights, new 42" railing at entry ramp area, additional conduit and wiring to connect ice rink equipment room exhaust fan to fire alarm panel.
Scott Rakow Youth Center	4	8/7/03	\$3,136,647.14	(\$4,500.00)	\$3,132,147.14	\$64,619.88	%06	\$580,162.93	0	Credit for deletion of 4-foot concrete sidewalk along Pine Tree Drive.
Tatum Park		2/23/00	\$341,518.36	\$50,987.25	\$392,505.61					new basketball court (originally anticipated)
Tatum Park	7 0	2/23/00	\$392,505.61	\$33,012.05	\$425,517.66	\$4,477.89	81%			sports and security lighting (originally anticipated)
I diulii raik	2	10/1/11	\$4.25,517,66	(\$1,800.00)	\$423,717.66	\$6,277.89	100%	٠ د		Contractor's portion of Safety Surface Installation

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF MIAMI BEACH FLORIDA, SETTING A PUBLIC HEARING TO GRANT A CERTIFICATE OF APPROPRAITENESS FOR DEMOLITION OF THE EXISTING LIBRARY AT COLLINS PARK.

Issue:

Shall the City Commission set a public hearing to grant a Certificate of Appropriateness for Demolition of the existing library at Collins Park?

Item Summary/Recommendation:

On September 23, 1998, the Mayor and City Commission adopted resolution No. 98-22904, authorizing the Mayor and City Clerk to execute an Agreement with the firm of Robert A. M. Stern Architects (Stern) for the architectural and engineering design of a new Regional Library. On April 10, 2002, the Mayor and City Commission accepted a recommendation from the Administration and adopted Resolution No. 2002-24828 awarding the construction contract for the Project to The Tower Group. On May 13, 2002, The Tower Group was given Notice to Proceed and construction began on the new library. At this time, the new library is expected to obtain Final Certificate of Occupancy and Final Completion in August 2004. In preparation for the completion of this project and the eventual need for the demolition of the existing library, the City contracted with the firm of Edward Lewis Architects (ELA) on February 23, 2004, to prepare demolition and Rotunda conservation contract documents for after the demolition. ELA completed documents and presented them to the Historic Preservation Board (HPB) to request the Certificate of Appropriateness for Demolition of the existing library. The HPB reviewed the request at their May 11, 2004 meeting and issued an Order approving the demolition with some minor provisions. The City intends to price the demolition of the existing library and conservation of the Rotunda with one of the City's contractors under the Job Order Contract Program (JOC) as soon as the final documents are completed and the City Commission approves the Certificate of Appropriateness for Demolition consistent with the HPB Order. Because concerns have been raised regarding the area being in construction during the Art Basel event in early December 2004, the City is considering delaying the demolition and conservation of the Rotunda until after early January. This decision will be made when all information regarding costs and schedules is finalized. The Administration recommends that the Mayor and City Commission schedule the Public Hearing, to grant a Certificate of Appropriateness for Demolition of the existing library at Collins Park.

Advisory Board Recommendation	on	r
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Ν	/A
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Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Jorge E. Chartrand

Sign-Offs:

Department Director Assistant City Manager City Manager

THE CMC MANAGER CITY MANAGER

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AGENDA ITEM C7A

DATE 7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE

CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING, PURSUANT TO MIAMI BEACH CITY CODE SECTION 118-564, TO GRANT A CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OF THE EXISTING LIBRARY AT COLLINS PARK, A BUILDING DESIGNATED NON-CONTRIBUTING, LOCATED AT 2100 COLLINS AVE., IN ORDER TO RESTORE AND RENOVATE

COLLINS PARK.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

On September 23, 1998, the Mayor and City Commission adopted Resolution No. 98-22904, authorizing the Mayor and City Clerk to execute an Agreement with the firm of Robert A. M. Stern Architects (Stern) for the architectural and engineering design of a Regional Library, a 400-space Parking Garage, and Park and Streetscape Improvements in the area surrounding Collins Park.

On January 6, 1999, the Mayor and City Commission authorized appropriation of the funding necessary to implement the Agreement with Stern and authorized an amendment, which reflected the change in scope, deleting the Parking Garage and adding the surface lots. This Agreement included in the Master Plan the demolition of the existing library at the completion of the new building.

On November 2, 2001, the Regional Library documents were advertised for bid. Six bids were received on December 19, 2001. On April 10, 2002, The Mayor and City Commission accepted a recommendation from the Administration and adopted Resolution No. 2002-24828 awarding the construction contract for the Project to The Tower Group.

On May 13, 2002, The Tower Group was given Notice to Proceed and Construction began on the new library. The Regional Library Project was granted a Temporary Certificate of Occupancy in June 8, 2004 and the contractor is expected to be granted Substantial

M-Rotunda-02-07072004-JFCh

Commission Memorandum Existing Library Demolition Page 2 of 3

Completion in early July 2004. At this time the new library is expected to obtain a Final Certificate of Occupancy and Final Completion in August 2004. In preparation for the completion of this Project, and the eventual need for the demolition of the existing building, the City contracted with the firm of Edward Lewis Architects, Inc. (ELA) on February 23, 2004, to prepare demolition documents and Rotunda conservation documents for after the demolition has occurred.

ELA completed documents needed to be presented to the Historic Preservation Board (HPB) to request the Certificate of Appropriateness for Demolition of the Existing Library. The HPB reviewed the request at their May 11, 2004 meeting and issued an Order approving the demolition with some minor provisions. ELA and the City are currently addressing the comments made by the HPB In order to prepare final documents for demolition.

The provisions are specifically described in the attached Final Order, File No. 2167, but in general include the requirement to bring new design documents for Collins Park and the Rotunda to the HPB once they are completed in the future; submittal to staff of the existing building construction record drawings as well as current record photographs of the existing building; an analysis of the history of the building submitted to staff prior to the issuance of a construction permit for the new Collins Park and Rotunda Restoration documents; the submittal to staff, at the time of demolition permit review, of the demolition and conservation documents prepared by the consultant; and a report submitted to staff of the result of efforts made to relocate, if possible, the loggia of the existing library. It has been determined by staff that none of the provisions above and the timelines associated with them prevents the granting of the Certificate of Appropriateness for Demolition by the Mayor and City Commission at this time.

The preliminary estimate provided by the consultant is in the neighborhood of \$300,000 for the demolition and conservation. The City intends to price the demolition of the existing library and conservation of the Rotunda with one of the City's contractors under the Job Order Contract Program (JOC) as soon as the final documents are completed and the City Commission approves the Certificate of Appropriateness for Demolition consistent with the Order issued by the HPB.

The schedule for the demolition and conservation is currently estimated at four months. If the City Commission grants the certificate, the City would be in position to schedule the process of demolition sometime in late August or early September. Because concerns have been raised regarding the area being in construction during the Art Basel event in early December, the City is considering delaying the demolition and conservation of the Rotunda until after early January. This decision will be made when all information regarding costs and schedules are finalized.

CONCLUSION

The Administration recommends that the Mayor and City Commission schedule the Public Hearing to grant the Certificate of Appropriateness for Demolition pursuant to Miami

Beach City Code Section 118-563, to grant a Certificate of Appropriateness for Demolition Commission Memorandum Existing Library Demolition Page 3 of 3

of the existing library at Collins Park, a building designated non-contributing, located at 2100 Collins Ave., in order to restore and renovate Collins Park and the Rotunda building.

Attachment

T:\AGENDA\2004\Jul0704\Consent\Rotunda Demolition Memo.doc

RESOLUTION NO.		

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING, PURSUANT TO MIAMI BEACH CITY CODE SECTION 118-564, TO CONSIDER GRANTING A CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OF THE EXISTING LIBRARY AT COLLINS PARK, A BUILDING DESIGNATED NON-CONTRIBUTING, LOCATED AT 2100 COLLINS AVENUE, IN ORDER TO RESTORE AND RENOVATE COLLINS PARK.

WHEREAS, on September 1998, the Mayor and City Commission adopted Resolution No. 98-2904, authorizing the Mayor and City Clerk to execute an Agreement with the firm of Robert A. M. Stern (Stern) for the design of a new Regional Library (the Project); and

WHEREAS, on January 6, 1999, the Mayor and City Commission authorized appropriation of the funding necessary for the Agreement which included in the Master Plan the demolition of the existing library at the completion of the construction of the new building, and

WHEREAS, on April 10, 2002, the Mayor and City Commission adopted Resolution No. 2002-24828 awarding the construction contract for the Project to The Tower Group (Tower); and

WHEREAS, on May 13, 2002, Tower began construction of the Project, which is currently expected to receive Final Certificate of Occupancy and Final Completion in August, 2004; and

WHEREAS, on February 23, 2004, the City contracted with the firm of Edward Lewis Architects (ELA), to prepare demolition documents of the existing library and Rotunda conservation documents; and

WHEREAS, ELA completed the documents and presented them at the Historic Preservation Board (HPB) meeting of May 11, 2004, where a recommendation for the Mayor and City Commission to consider the granting of a Certificate of Appropriateness for Demolition was adopted; and

WHEREAS, the City intends to price the cost of the demolition with one of the City's contractors under the Job Order Contract Program (JOC); and

WHEREAS, the City would be in position to schedule the demolition of the existing library in late August or early September, but may delay it until January of 2005, due to the upcoming Art Basel event in December 2004.

COMMISSION OF THE CITY OF City Commission, hereby set a Pu Code Section 118-564, to conside Demolition of the existing library contributing, located at 2100 Coll Collins Park; said public hearing	Y RESOLVED BY THE MAYOR MIAMI BEACH, FLORIDA, that the ablic Hearing, pursuant to the Miamer granting a Certificate of Approper at Collins Park, a building designing Avenue, in order to restore a to be held on at n Chambers, 1700 Convention C 33139.	ne Mayor and ni Beach City oriateness for ignated non- and renovate
PASSED and ADOPTED this	day of	2004
ATTEST:		
CITY CLERK	MAYOR	
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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

Date

HISTORIC PRESERVATION BOARD City of Miami Beach, Florida

MEETING DATE:

May 11, 2004

FILE NO:

2167

PROPERTY:

2100 Collins Avenue - Miami Beach Public Library

LEGAL:

The east right-of-way line of Park Ave. to the west. The west right-of-way line of Collins Avenue to the east, the south right-of-way line of 22nd Street to the north and the north right-of-way line of 21st Street to the south also known as Collins Park of the amended map of the Ocean Front Park property, according to the Plat thereof, as recorded in Plat Book 5 at pages 7 & 8 of the

public records of Miami-Dade County, Florida.

IN RE:

The Application for a Certificate of Appropriateness for the demolition of the

1962 Miami Beach Library building.

ORDER

The applicant, City of Miami Beach, filed an application with the City of Miami Beach Planning Department for a Certificate of Appropriateness for Demolition.

The City of Miami Beach Historic Preservation Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which are part of the record for this matter:

- A. The subject structure is located within the Museum Local Historic District and National Register Architectural District and is designated non-contributing in the Miami Beach Historic Properties Database.
- B. Based on the plans and documents submitted with the application, testimony and information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is not consistent with Certificate of Appropriateness Criteria for Demolition 2, 3, 4, 5, 8 and 9 in Section 118-564(f)(4).
- C. The project would be consistent with the criteria and requirements of section 118-564 if the following conditions are met:
 - The completed design of Collins Park and the restored rotunda shall return to the Board for review and approval.

These plans are not required to be submitted for Board review and approval perior to the City Commission granting approval of the Cof a for Demolition of the existing library, but in a timely manner thereafter. WHC 1/25/04

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Meeting Date: May 11, 2004

- 2. Revised drawings, with corresponding color photographs, that are separate from the construction documents, drawn to scale and clearly documenting the existing conditions of the subject building, shall be submitted. Such drawings and photographs shall include all four elevations and interior floor plans of the building, as well as a site for the Callins Park plan.
- master plan 3. An historic analysis of the existing structure, inclusive of a photographic and written description of the history and evolution of the original building on site, shall be submitted to and approved by staff, prior to the issuance of a Building Permit, such historic analysis shall be displayed prominently within the public area of the new library or the rotunda, in a location to be determined by staff.
- 4. A drawn plan and written procedure for the proposed demolition shall be prepared and submitted by a Professional Structural Engineer, registered in the State of Florida, which fully ensures the protection of the public safety, as well as the protection of the existing structure on the subject site and all existing structures adjacent to the subject site during the course of demolition.
- 5. Final approval from the City Commission shall be required, prior to the issuance of a demolition permit. Provide litter shaving the
- 6. Efforts shall be made to relocate the existing granite loggia.

first were made relations to relations the relations the loggina thereof is held void or diction, the order shall reder meets the criteria The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of compate it. 7. unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were amended by the Board, that the Certificate of Appropriateness is GRANTED for the above-referenced project subject to those certain conditions specified in paragraph C of the Findings of Fact (Condition Nos. 1-7, inclusive) hereof, to which the applicant has agreed.

No building permit may be issued unless and until all conditions of approval as set forth herein have been met. The issuance of a Certificate of Appropriateness does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of plans approved by the Board, modified in accordance with the above conditions, shall be submitted to the Planning Department. If all of the

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Page 3 of 3

HPB File No. 2167

Meeting Date: May 11, 2004

above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Historic Preservation Board's file.

If the Full Building Permit is not issued within eighteen (18) months of the meeting date at which this Certificate of Appropriateness was granted and construction does not commence and continue in accordance with the requirements of the applicable Building Code, the Certificate of Appropriateness will expire and become null and void, unless the applicant, prior to expiration of such period, makes application to the Board for an extension of time; the granting of any such extension of time shall be at the discretion of the Board. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this **Order** shall subject the Certificate of Appropriateness to Section 118-564, City Code, for revocation or modification of the Certificate of Appropriateness.

Dated this 21 day of May , 2000	
BY: BY: THOMAS R. MC	RESERVATION MANAGER
STATE OF FLORIDA))SS	
COUNTY OF MIAMI-DADE)	
Corporation. He is personally known to me. Charles A Taft My Commission DD233174 Expires July 17, 2007 Miami-Da	Design and Preservation Manager, Planning Municipal Corporation, on behalf of the
Approved As To Form: Legal Department: (5-21-04)
Filed with the Clerk of the Historic Preservation Board	
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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A resolution accepting \$24,250, in private contributions for the Flagler Memorial Monument Phase I Project; appropriating funding in the total amount of \$71,050, as follows; \$24,000, and \$22,800 from the fiscal year 2003 and 2004 resort tax funds, respectively, and \$24,250 in private contributions, to fund this phase of the project.

Issue:

Shall the City Commission accept the private contribution and appropriate the funding to perform the structural analysis, architectural and engineering report for the Flagler Memorial Monument Phase I Project?

Item Summary/Recommendation:

On March 20, 2002, the City of Miami Beach adopted Ordinance No. 2002-3354, designating the Flagler Memorial and Monument Island as a local historic site. The Flagler Memorial Monument features a 96-foot high obelisk, on a pedestal, with four allegorical figures at its base, and has experienced many years of damage as a result of exposure to the natural elements and vandalism. There are visible signs of deterioration and the Monument needs structural analysis, engineering, emergency stabilization, and protective treatments to prevent further deterioration.

As part of Phase I of this project, the CIP Office is in the process of negotiating a professional architectural and engineering service agreement through JOC, to provide a structural report, an analysis of the Monument's existing condition, development of conservation methods for the Monument emergency stabilization, and cost analysis. The Administration recommends the initiation of Phase I of the project. Future phases of the project may include conservation planning, the development of construction documents, and a full renovation of the monument, if the funds become available.

Advisory Board Recommendation:

N/A

Financial Information:

Source of		Amount	Account	Approved
Funds:	1	24,250	AIPP Private Contributions	
	2	24,000	FY 2003 Resort Tax Funds	
	3	22,800	FY 2004 Resort Tax Funds	
	4			
Finance Dept.	Total	71,050		

City Clerk's Office Legislative Tracking:

Carla Dixon, CIP

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		1 me
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AGENDA ITEM <u>C7B</u>

DATE₅₅7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 http://miamibeachfl.gov



Date: July 07, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING \$24,250, IN PRIVATE CONTRIBUTIONS FOR THE FLAGLER MEMORIAL MONUMENT PHASE I PROJECT; APPROPRIATING FUNDING IN THE TOTAL AMOUNT OF \$71,050, AS FOLLOWS; \$24,000, AND \$22,800 FROM THE FISCAL YEAR 2003 AND 2004 RESORT TAX FUNDS, RESPECTIVELY, AND \$24,250 IN PRIVATE CONTRIBUTIONS, TO FUND THIS PHASE OF THE PROJECT.

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

FUNDING:

Funding in the total amount of \$98,410 is available for this project as follows:

•	Art in Public Places Private Contributions\$ 24	,250
•	FY 2003 Resort Tax\$ 24	,000
•	FY 2004 Resort Tax\$ 22	.800
	Appropriation Subtotal \$ 71	
•	State of Florida Historic Preservation Grant (Previously Appropriated) \$ 27	260

State of Florida Historic Preservation Grant (Previously Appropriated).\$ 27,360
 Total \$98.410

ANALYSIS

The Flagler Memorial Monument, constructed in the 1920's, was dedicated by Miami Beach pioneer Carl Fisher to Henry Flagler. The monument features a 96-foot high obelisk, on a pedestal, with four allegorical figures at its base. The figures symbolize Education, Prosperity, Industry, and Pioneer. Nationally recognized artists Ettore Pellegatta and H.P. Peterson sculpted the monument. Pellegatta is credited for carving the four 18-foot statues at the Monument's base.

On March 20, 2002, the City of Miami Beach adopted Ordinance No. 2002-3354, designating the Flagler Memorial and Monument Island as a local historic site, as documented in the Designation Report prepared by the Planning Department. The Flagler Memorial Monument (the Monument), has experienced many years of damage as a result of exposure to the various natural elements and vandalism. Visible signs of the deterioration include, extensive cracking, oxidation, exposed rebar, and loss of portions of the statues. Consequently, the Monument needs structural analysis, engineering, emergency stabilization, and protective treatments to prevent further deterioration.

Commission Memorandum July 7, 2004 Flagler Memorial Monument Page 2 of 2

As part of Phase I of this project, and in the interest of meeting the State of Florida Historic Preservation Grant funding expiration deadline, the CIP Office is in the process of negotiating a professional architectural and engineering service fee, through the Job Order Contracting (JOC) System. The JOC contractor, with the support of an architectural and engineering sub-contractor will provide a structural report, an analysis of the Monument's existing condition, develop conservation methods for the Monument emergency stabilization, and cost analysis.

The Project's scope of work includes the examination of the Monument, research and data collection, on-site sampling and laboratory testing, photography, labor, material, equipment, and transportation, structural analysis/report, and statement of recommendation, including the establishment of parameters for the cleaning, repairing, application of protective coating, and emergency stabilization as necessary, and the engineer's estimate of probable cost.

Future phases of the project may include conservation planning, the development of construction documents, and a full renovation of the monument, (obelisk, statues, and pedestal) if the funds become available. At this time the administration is requesting the appropriation of only the funding necessary to initiate Phase I of the Flagler Memorial Project.

JMG/TH/JC/DT/CD

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RESOLUTION TO BE SUBMITTED

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving the addition of Planning, Design, Surveying and Permitting Services, for the Indian Creek Greenway Pilot Project, as Amendment No. 1 to the scope of services of the Agreement dated May 16, 2001 with EDAW, Inc., for the Oceanfront Right of Way Improvement Project, in the amount of \$139,730.54.

Issue:

Shall the City award Additional Services to EDAW, Inc., for the Indian Creek Greenway Pilot Project, in the amount of \$139,730.54, as an amendment to the Oceanfront Right of Way Improvement Project A/E agreement?

Item Summary/Recommendation:

On May 16, 2001, the Mayor and City Commissioners adopted Resolution No. 2001-24384 authorizing an Agreement between the City and EDAW, Inc. for professional services for the Oceanfront Right-of-Way Improvement Project for a not to exceed fee of \$307,690. The award of this present amendment to EDAW's original contract for the Oceanfront Neighborhood would develop the design of the Indian Creek Greenway further for an initial phase, or "Pilot" area of the project, from approximately 24th Street (Liberty Avenue and Collins Canal) to 29th Street. This scope is not currently included in EDAW's scope for the Oceanfront Neighborhood. The total requested fee is \$139,730.54. This fee has been evaluated by the Program Manager, and CIP Office Staff, and the latter has negotiated with EDAW, Inc. for the final amount. On June 7, 2004, the General Obligation Bond Oversight Committee voted to recommend that the City Commission award this amendment. The Administration recommends approving the additional design services to enable EDAW, Inc. to perform services for the initial phase of the Indian Creek Greenway Project.

Advisory Board Recommendation:

On June 7, 2004, the General Obligation Bond Oversight Committee voted to recommend that the City Commission award this amendment.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1	\$139,730.54	1999 GO Bond Fund	
	2			
	3			
İ	4			
Finance Dept.	Total	\$139,730.54		

City Clerk's Office Legislative Tracking:

Mauro A. Burgio, Senior Capital Projects Coordinator

Sign-Offs:

Department Director	Assistant City Manager	City Manager
101		9
W M		Ima

M-Ocean OW-02-07072004-MB

AGENDA ITEM <u>C7C</u>

DATE <u>7-7-04</u>

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 07, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, APPROVING THE ADDITION OF PLANNING, DESIGN, SURVEYING AND PERMITTING SERVICES IN THE AMOUNT OF \$139,730.54, FOR THE INDIAN CREEK GREENWAY PILOT PROJECT, AS AMENDMENT NO. 1 TO THE SCOPE OF SERVICES OF THE AGREEMENT DATED MAY 16, 2001, WITH EDAW, INC., FOR THE OCEANFRONT RIGHT OF WAY IMPROVEMENT PROJECT; ALL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT 'A', THE SCOPE OF SERVICES; EXHIBIT 'B', THE FEE DETAIL; AND EXHIBIT 'C', THE

GEOGRAPHIC AREA OF THE ABOVE MENTIONED PROJECT.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

Funds are available from General Obligation Bond funds for the Oceanfront Right of Way Improvement Project, the Indian Creek Greenway Project, and the Shoreline and Seawall's Project.

ANALYSIS

On May 16, 2001, the Mayor and City Commission adopted Resolution No. 2001-24384 authorizing an agreement between the City and EDAW, Inc. for professional services for the Oceanfront Neighborhood Right-of-Way Project for a not to exceed fee of \$307,690. On May 29, 2002 the Mayor and City Commission adopted Resolution No. 2002-24878, approving the Basis of Design Report (BODR) defining the funded capital improvements to be implemented in the neighborhood.

The Indian Creek Greenway is envisioned as a pedestrian corridor on the eastern side of Indian Creek with native landscaping, hard surface features, street furnishings and pedestrian level lighting. The limits of the Greenway extend from Liberty Avenue at the base of Lake Pancoast to 63rd Street. The Greenway Project will connect other alternative pedestrian paths within the City such as the Beachwalk, North Beach Recreational Corridor, Collins Canal and bicycle paths, into a citywide system of linkages from North to

City Commission Memorandum July 7, 2004 Indian Creek Greenway A/E Services Page 2 of 3

South Beach. This is not currently included in the Oceanfront Right of Way Improvement Project scope.

During the summer of 1999, EDAW Inc., through its Summer Student Program, performed preliminary planning services and developed a conceptual design for the Greenway. During the initial planning effort, project design issues were identified such as available uplands to support project construction and the lack of property ownership of a significant number of land parcels. EDAW developed three design concepts to accommodate the construction of the project. Lack of property ownership of the project area prevents the City from acquiring future grant funds for the project as well as prevents the CIP Office from fully executing a Design Phase for the Greenway.

The following sources have been identified to provide initial funding for the Indian Creek Greenway Project:

Project Description	Funding Source	Amount
Indian Creek Greenway	General Obligation Bond	\$300,000
Shoreline Restoration/Rehabilitation	General Obligation Bond	\$375,000
Indian Creek Greenway Overlooks (from Oceanfront Neighborhood funding)	General Obligation Bond	\$150,000
Total Identified / Available Funding		\$825,000

In order to meet available funding and to further community support, the City desires to develop a portion of the Indian Creek Greenway to illustrate a demonstration project to the community. This proposed amendment would develop the design further for an initial phase, or "Pilot" area of the project from approximately 24th Street (Liberty Avenue and Collins Canal) to 29th Street, as shown in Exhibit 'C'. This will provide a linkage between the Cultural Campus and the 29th Street footbridge.

The full scope of services for this pilot project is attached as Exhibit 'A'. The scope includes the following main tasks:

- Establishing existing conditions of the project area.
- Performing a topographic survey of the project limits from the west side of the Indian Creek Waterway to the east side of the Indian Creek Drive right of way.
- Performing a hydrographic survey of the Indian Creek Waterway within the Project Limits.
- Performing an environmental resources inventory of the Indian Creek Waterway.
- Meeting with the appropriate regulatory agencies to present the project and discuss regulatory agency requirements.
- Finalizing the conceptual design of the Indian Creek Greenway to establish project budget for a funded and unfunded design alternative.

City Commission Memorandum July 7, 2004 Indian Creek Greenway A/E Services Page 3 of 3

Initial reconnaissance level estimates approximate the value of this initial construction effort at \$1,500,000. Factors affecting construction costs include, seawall rehabilitation repairs, submerged lands use, and the complexity of constructing through a narrow right of way, which may require cantilevering the greenway over canal waters. The construction cost estimate does not include the expenses to acquire property and / or development rights. Though the City owns certain sub-areas, parking lots and street ends within the proposed project limits, there are still a number of unsecured parcels within the Demonstration Project area.

Due to EDAW's familiarity with the Indian Creek Greenway project, and their current work on the adjacent Oceanfront Right of Way Improvement Project, the City asked EDAW to develop a project approach focused on defining the existing condition of the Indian Creek Greenway project area. To this end, EDAW has presented an additional services proposal to the City to secure both topographic and hydrographic surveys and an environmental resources inventory on the Demonstration Project area.

The total requested fee is \$139,730.54 and it is detailed in Exhibit "B". This fee has been evaluated by Program Managers Hazen and Sawyer and the CIP Office Staff, and the latter has negotiated with EDAW, Inc. for the final amount.

Conclusion

On June 7, 2004, the General Obligation Oversight Committee voted to recommend that the City Commission award this amendment. The Administration also recommends approving the additional design services to enable EDAW, Inc. to perform services for this project.

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RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE ADDITION OF PLANNING, DESIGN, SURVEYING AND PERMITTING SERVICES, IN THE AMOUNT OF \$139,730.54, FOR THE INDIAN CREEK GREENWAY PILOT PROJECT, AS AMENDMENT NO. 1 TO THE SCOPE OF SERVICES OF THE AGREEMENT, DATED MAY 16, 2001, WITH EDAW, INC., FOR THE OCEANFRONT RIGHT OF WAY IMPROVEMENT PROJECT.

WHEREAS, on May 16, 2001, the Mayor and City Commission adopted Resolution No. 2001-24384, authorizing an agreement between the City and EDAW, Inc. for professional services for the Oceanfront Neighborhood Right-of-Way Project (Project) for a not to exceed fee of \$307,690 (The Agreement); and

WHEREAS, EDAW, Inc. has served as the Architectural/Engineering (A/E) firm for the Project, and as part of this function, has performed preliminary planning services for conceptual design of the proposed Indian Creek Greenway Project; and

WHEREAS, the City desires to develop a portion of the Indian Creek Greenway to illustrate a demonstration, or 'pilot' project to the community; and

WHEREAS, Amendment No. 1 to the scope of services of the Agreement with EDAW, Inc. for the Project, attached hereto as Exhibit "A", would develop the design for the Indian Creek Pilot Project, as shown in the map attached hereto as Exhibit "C"; and

WHEREAS, the total requested fee of \$139,730.54, as detailed in Exhibit "B" has been evaluated by the City's Program Manager, Hazen & Sawyer, and has been negotiated by CIP Office Staff with EDAW, Inc.; and

WHEREAS, funding, in the amount of \$139,730.54, is available from GO Bond Funds Series 1999; and

WHEREAS, on June 7th, 2004, the General Obligation Oversight Committee voted to recommend that the City Commission Approve Amendment No.1 to the Agreement; and

WHEREAS, the Administration recommends approving Amendment No. 1 to the Agreement.

NOW, THEREFORE BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute the attached

Amendment No. 1, to the current Professional Services Agreement between the City and EDAW, Inc.; said Agreement in the amount of \$139,730.54, for planning, design, surveying and permitting services, for the Indian Creek Greenway Pilot Project.

PASSED AND ADOPTED this 7th day of J	luly, 2004.
ATTEST:	
CITY CLERK	MAYOR
	APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION
	City Attorney Date

Exhibit 'A' Scope of Services Indian Creek Greenway

Background

EDAW, Inc., during the summer of 1999, performed preliminary planning services and developed a conceptual design for a pedestrian friendly / recreational corridor along the east limits of the Indian Creek Waterway. This corridor entailed the construction of a pedestrian / recreational corridor with hard surface features, native landscaping, street furnishings and pedestrian level lighting. The limits of the Indian Creek Greenway were to extend from 23rd Street to 63rd Street and connect the Atlantic Greenway project to the North Beach Recreational Corridor. This project would essentially become the linkage between the South and North Beach regions.

During the initial planning effort, project design issues were identified such as the lack of property ownership and available uplands to support project construction. EDAW developed three design concepts to accommodate the construction of the project within those areas preliminarily identified as insufficient to accommodate construction. The City has approached certain property owners to discuss the use of non-City owned property and has had limited success securing the necessary approvals to construct the project. Another project team dilemma consists of the availability of uplands to support construction of the Greenway's ideal corridor width. Alternatives to extend the Greenway corridor into State Submerged Lands have been preliminarily investigated and require further definition with the regulatory agencies. In an effort to implement the Greenway project, the City has identified the following funding sources:

Project Description	Funding Source	Amount
Indian Creek Greenway	General Obligation Bond	\$300,000
Shoreline Restoration / Rehabilitation	General Obligation Bond	\$375,000
Indian Creek Greenway Overlooks	General Obligation Bond	\$150,000
Total Identified / Available Funding		\$825,000

The City desires to prepare construction documents for a portion of the Indian Creek Greenway to illustrate a demonstration project to the community. Therefore, it has been discussed to develop the design further for an initial phase of the project from approximately the south limit of Lake Pancoast and Indian Creek Drive to just north of the 29th Street pedestrian bridge. This will provide a linkage between the Cultural Campus and the 29th Street pedestrian bridge. Initial reconnaissance level estimates reflect that the value of this initial construction effort will exceed the total identified / available funding. It is understood that the City owns certain sub-areas, parking lots and street ends within the proposed project limits.

Factors affecting construction costs include: seawall rehabilitation repairs, submerged lands use and conceptual design refinement / permittability. It is therefore contemplated that the following project approach be followed in an effort to further define project scope requirements:

- Design team to establish the existing condition of the project area.
- Perform a topographic survey of the project limits from the west side of the Indian Creek Waterway to the east side of the Indian Creek Drive / Collins Avenue right-of-way.
- Perform a hydrographic survey of the Indian Creek Waterway within the Project Limits.
- Perform an environmental resources inventory of the Indian Creek Waterway.
- Meet with the appropriate regulatory agencies to present project description and discuss regulatory agency requirements.
- Finalize conceptual design of the Indian Creek Greenway to establish project budget for a funded and unfunded design alternative.

Once the conceptual design has been finalized and project-funding requirements are established, detail design / permitting can proceed. The Indian Creek Greenway – Phase I project construction will commence after all property acquisitions have been secured in the form of an easement and / or outright ownership. It is anticipated that the City's Asset Management Division will assist key stakeholders / City leaders in the acquisition of property required to support project construction on a parallel timeline to this pre-design effort.

Time of completion for this Project shall be 450 calendar days from the issuance of the Notice to Proceed.

Task 5.1.1 - Data Collection:

The CONSULTANT will compile readily available data relative to existing conditions within the proposed Project area. The CITY will provide all available data from their office. This city-provided data will include existing surveys of the proposed Project area and connector streets (including utilities and other as-built surveys), names of property owners, plans for street and other local improvements, and aerial photographs and maps, if available. The CONSULTANT will prepare a Preliminary Base Map using available surveys, construction plans, and aerial data, as referenced herein. This Preliminary Base Map will be suitable for overlaying and reviewing conceptual design plans prior to completion of the primary project surveys. The Preliminary Base Map will also serve to confirm the additional data that must be obtained for the final base map and can be utilized for the subsequent planning / pre-design effort.

Deliverables: Review existing / available data.

Prepare Preliminary Base Map.

Deliver five (5) sets of preliminary base maps to PROGRAM MANAGER

with accompanying electronic files.

Schedule: Within 60 calendar days after Notice to Proceed issuance.

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<u>Task 5.1.2 - Project Kick-off Meeting:</u>

The CONSULTANT will conduct one (1) kick-off meeting with the PROGRAM MANAGER and CITY staff to review available surveys, preliminary conceptual plan documents and permitting requirements. Preliminary project goals, timelines, and budgets will be discussed. Based on this meeting, the CONSULTANT will schedule a Site Reconnaissance Visit.

Deliverables: Prepare and attend Project Kick-off Meeting.

Schedule: Within 15 calendar days after Task 5.1.1 completion.

Task 1.3 - Site Reconnaissance Visit:

The CONSULTANT will schedule and attend one (1) visit of the Project site to observe existing conditions, identify potential design opportunities and challenges, and photograph relevant features and areas of interest. The Site Reconnaissance Visit will also serve to preliminarily evaluate the condition of existing shoreline armoring structures, opportunities for development of additional features in or over the water, and any potential impact of planned / ongoing Florida Department of Transportation (FDOT) works to the Project. The feasibility and layout of proposed structures (walkways, view corridors, landscaping, water overlooks / mini-parks, shoreline stabilization and planting, lighting, signage, etc.) will be reviewed.

Deliverables: Prepare and attend Site Reconnaissance Visit.

Schedule: Within 15 calendar days after Task 5.1.2 completion.

Task 5.1.4 (a) - Field Verification of Existing Conditions - Upland:

CONSULTANT shall perform a detailed topographic survey of the existing right-of-way and other upland areas to be impacted by construction activities under the scope of this project. The survey shall be performed by a Certified Land Surveyor in the State of Florida and shall meet the minimum technical standards identified in Chapter 61G17-6, FAC. All survey files shall be prepared in AutoCAD (version 14 or higher) format with a layering system as identified by PROGRAM MANAGER. As a minimum, the survey shall address the following:

- Topographic survey shall consist of establishing a baseline with 100-foot stations, and identify right-of-way monuments and sectionalized land corners. Baseline of survey shall be tied into the right-of-way and sectionalized land monuments. Right-of-way information shall be obtained from available records by CONSULTANT.
- CONSULTANT shall set benchmarks at convenient locations along the corridor to be used during both the design and construction phases of the project. As a minimum, permanent benchmarks shall be set at 1,000-foot intervals along the alignment. CONSULTANT shall tie-in at least two existing government County monuments to vertical circuit and shall take cross sections at 100-foot intervals along the project corridor. The benchmarks shall be derived from existing government benchmarks and be carried into the proposed system using Second Order, Class II procedures. A full listing of benchmark locations shall accompany the survey data.

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- Cross section elevations shall define all grade breaks such as intersections, swale, edge of pavement, pavement centerline, curb and gutter, edges of sidewalk, driveway connections, right-of-way line, edge of a 10 foot right-of-way offset, encroachments (both natural and builtin), etc.
- CONSULTANT shall locate and identify all the existing surface improvements / topographic features that are visible along the corridor, such as the following:
 - existing valve boxes, water / electrical meter boxes, electrical pull boxes, telephone / cable risers, fences, hydrants, etc.
 - aboveground and underground utilities, invert elevations of accessible underground utilities (including Indian Creek outfalls), wood / concrete utility poles, culverts, guardrails, pavement limits, headwalls, end walls, manholes, vaults, mailboxes, driveways, side streets, trees, landscaping, traffic signage and any other noted improvements. Survey shall identify fence material / height, landscaping plant materials and driveway construction materials. Palms / tree species shall be identified. Shrubs and / or understory shall be identified by illustrating the outline / boundary of the referenced materials.
- Corridor to be surveyed includes the following Project Limits:

South Limit – approximately the south limit of Lake Pancoast

West Limit – west water's edge / bulkhead of Indian Creek Waterway

North Limit – approximately 200 feet north of 29th Street north right-of-way

East Limit – east right-of-way of Indian Creek Drive / Collins Avenue

- Survey limits shall include the entire project limits and an additional overlap of 10 feet on either side of the Project Limits, or as noted above, whichever is more extensive.
- Survey / base map shall be prepared in AutoCAD version 14.0 or higher and submitted in an electronic medium with three signed and sealed copies on 22-inch by 34-inch bond paper to the CITY. CAD mapping shall be performed to a scale of 1:1 in the World Coordinate System. Text size shall be 100 leroy for a final product at 1=20 units.
- Indicate geometry of perimeter private property plats (inclusive of fences, landscaping and driveways) within the above-referenced project limits.

Upon completion of the survey, CONSULTANT shall forward the same to the following agencies with a request to mark / identify their respective utilities on the survey base map. CONSULTANT shall coordinate this effort with each agency in an effort to identify the location of all underground utilities. CONSULTANT shall incorporate utility owner markups / edits into its survey base map file. CONSULTANT shall contact the following entities and request that they each verify locations of their existing improvements in the affected areas:

- Florida Power and Light
- BellSouth
- Miami-Dade Water and Sewer Authority

Charter Communications

Natural Gas

Others as deemed necessary

Deliverables: Perform forensic work as noted.

Prepare and deliver five (5) signed and sealed hardcopies of the survey to PROGRAM MANAGER plus an additional ten (10) signed and sealed

copies for permitting purposes.

Schedule: Within 90 calendar days after Task 1.3 completion.

Task 5.1.4 (b) - Field Verification of Existing Conditions - Marine:

CONSULTANT shall perform a detailed hydrographic survey of the existing waterway areas identified within the Project Limits identified in Task 1.4 (a) under the scope of this project. All survey files shall be prepared in AutoCAD (version 14 or higher) format with a layering system as identified by PROGRAM MANAGER. As a minimum, the survey shall address the following:

- Hydrographic survey shall consist of cross sections at 100-foot intervals along the project corridor to identify the features of the Indian Creek Waterway from the east top of shoreline slope/bulkhead to the west top of shoreline slope/bulkhead
- At a minimum, Indian Creek Waterway bottom elevations should be taken every 10 feet along each cross section. Additional elevations shall be established near the existing outfalls located south of 24th, 27th and 29th Streets in an effort to establish the available water depth in the vicinity of the outfalls. Mean low and high water elevations shall also be established.
- The hydrographic survey will cover the Project Limits noted herein and will be tied horizontally and vertically to the upland topographic survey.

Deliverables: Perform forensic work as noted.

Prepare and deliver five (5) signed and sealed hardcopies of the survey to PROGRAM MANAGER plus an additional ten (10) signed and sealed

copies for permitting purposes.

Schedule: Within 90 calendar days after Task 5.1.3 completion.

Task 5.1.4 (c) - Field Investigation of Existing Seawall / Benthic Community:

CONSULTANT shall retain the services of a marine resources biologist to identify the extent of native seagrass, corals or other marine resources within the Indian Creek Waterway that may require consideration during the design, permitting and construction phase. CONSULTANT shall also obtain the services of an engineer-diver to investigate the condition of the existing

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seawall and document conditions with an underwater video camera / digital still photography. The intent of this investigation is to determine whether the existing steel sheet piles are corroded below the water line and if the replacement structures can be designed to facilitate shoreline stabilization. Existing bulkheads or revetments will be designed to incorporate any of the structurally sound elements of the existing structures, as appropriate. It is understood that barnacles and encrustations may preclude or obscure the underwater investigation.

Deliverables: Perform forensic work as noted.

Prepare and deliver technical memorandum outlining findings /

conclusions to PROGRAM MANAGER.

Schedule: Within 90 calendar days after Task 5.1.3 completion. (Note: seagrass survey

should be completed during the federally-established May to August growing

season).

<u>Task 5.1.5 – Final Base Map</u>: CONSULTANT shall develop detailed design base maps for the project including and combining the data collected in Tasks 5.1.1, 5.1.4a, 5.1.4b, and 5.1.4c. The maps shall include an overall key map and partial plans scaled at 1-inch equals 20 feet.

CONSULTANT shall prepare final base maps based on the information gathered herein. Copies of base maps shall be distributed to CITY and PROGRAM MANAGER, and will be used for Tasks 5.1.8 and 5.1.10.

Deliverables: Perform forensic work as noted to develop final base maps.

Deliver five (5) sets of final base maps to PROGRAM MANAGER with

accompanying electronic files.

Schedule: Within 30 calendar days after Task 5.1.4 completion.

Task 5.1.6 – Permitting Requirements:

CONSULTANT shall review Chapter 373 of the Florida Statutes, Chapters 40E-4, -40, and -400 of the Florida Administrative Code, and the South Florida Water Management District (SFWMD) "Basis of Review" for projects in jurisdictional waters. CONSULTANT shall also review the U.S. Army Corps of Engineers (ACOE) and Miami-Dade County Department of Environmental Resources Management (M-DDERM) regulations to confirm the extent and nature of their jurisdiction over proposed shoreline (marine) improvements. CONSULTANT recognizes that existing remnants of revetments / bulkheads currently in Indian Creek Waterway may pose a unique permitting strategy for the CITY to pursue. CONSULTANT shall confer with regulatory agency representatives to confirm its understandings of permitting requirements.

Deliverables: Deliver technical memorandum outlining CONSULTANT's findings /

conclusions to PROGRAM MANAGER.

Schedule: Within 30 calendar days after Task 5.1.5 completion.

Task 5.1.7 - Geotechnical Investigations:

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CONSULTANT shall perform subsurface investigations to determine soil properties for the design of shoreline stabilization measures. Soil borings will be drilled to obtain an estimated four (4) thirty-foot Standard Penetration Test (SPT) borings. SPT borings will be conducted in accordance with ASTM D-1586. Laboratory testing will be conducted to visually classify recovered soil samples in accordance with ASTM standards. An engineering analysis and report will be prepared along with recommended geotechnical properties for design.

Deliverables: Perform engineering services as noted.

Deliver five (5) signed and sealed copies of final geotechnical report to

PROGRAM MANAGER.

Schedule: Within 30 calendar days after Task 5.1.5 completion.

Task 5.1.8 - Refined Conceptual Design and Budget Cost Opinion:

Based on the results of the site visit, final base map and the initial conceptual design developed during the EDAW Summer Student Program 99, the CONSULTANT shall review and refine the conceptual design plans in coordination with CITY staff. CONSULTANT shall prepare a general layout plan presenting conceptual civil, structural, landscape and hardscape design elements. Typical sections / details representing conceptual design for the various project elements shall also be prepared. The level of detail in these conceptual sections / details shall be sufficient for budget grade level estimates and are not intended to be construction details. It is intended that a certain level of effort will be required to assess shoreline stabilization / seawall rehabilitation requirements and separate cost estimates shall be prepared for seawall repair / rehabilitation, new seawall construction and / or shoreline stabilization. Shoreline vegetation may be proposed to enhance shoreline stabilization and / or to provide a more diverse ecosystem and habitat. CONSULTANT shall provide conceptual designs illustrating proposed vegetation layouts, quantities, and species details. Mitigation design elements are not contemplated in this effort. Although, if the regulatory agencies express their desire to require wetland type species along the shoreline, it is anticipated that the CONSULTANT shall provide the necessary professional services to propose conceptual plantings and budget cost impacts.

CONSULTANT shall prepare a minimum of three conceptual structural designs for seawall repair / rehabilitation, new seawall construction and shoreline stabilization. The three conceptual designs will be provided to regulatory agencies for and reviewed for permittability. Concepts that receive approval may be applicable for use on future areas of the Indian Creek Greenway.

CONSULTANT shall also prepare a minimum of two conceptual designs identifying alternative hardscape / landscape treatments that the project may follow. One alternative will be limited to proposed improvements possible under the current funding allowance. The other alternative shall reflect additional levels of potential improvements that above the current funding amounts..

In addition, CONSULTANT shall prepare preliminary "budget" level cost estimates (+30%, -15% as defined by the American Association of Cost Engineers) for each alternative treatment indicating opinions of probable cost. Estimates shall present costs by category types (i.e. paving, lighting, landscaping, etc.) and shall be prepared in a Microsoft Excel Spreadsheet format.

PROGRAM MANAGER shall provide a template for the requisite cost estimate format to CONSULTANT.

Deliverables: Develop conceptual design elements as noted.

Develop "budget" level cost estimates for each combination of conceptual

structural designs and hardscape / landscape treatment.

Deliver five (5) sets of refined conceptual design to PROGRAM

MANAGER with accompanying electronic files.

Schedule:

Within 60 calendar days after Task 5.1.6 completion.

Task 5.1.9 - Initial Review Meeting with City Staff:

CONSULTANT shall attend one (1) meeting with CITY staff to review the Refined Conceptual Design concepts, Budget Cost Opinions and the goals of the pre-Application consultations. PROGRAM MANAGER will prepare meeting minutes. CONSULTANT should anticipate a level of effort to revise its conceptual design elements based upon the CITY's observations.

Deliverables: Prepare and attend Review Meeting.

Deliver five (5) sets of Conceptual Design Elements to PROGRAM

MANAGER with accompanying electronic files.

Schedule: Within 15 calendar days after Task 5.1.8 completion.

Task 5.1.10 - Pre-Application Consultations and Preliminary Permit Sketches:

CONSULTANT shall prepare, coordinate and attend pre-Application consultations with the following agencies to review the proposed Project:

- Miami-Dade Department of Environmental Resources Management (M-DDERM)
- South Florida Water Management District (SFWMD)
- State of Florida Department of Environmental Protection (FDEP) Division of Environmental Resource Permitting and Division of State Lands
- State of Florida Department of Transportation (FDOT)
- National Marine Fisheries Service (NMFS) / U.S. Fish and Wildlife Service
- United States Army Corps of Engineers (ACOE)
- City of Miami Beach Planning and Zoning / Building Departments

CONSULTANT shall prepare preliminary permit sketches representing existing and proposed conditions, including upland survey data, seawalls, environmental enhancements, preliminary hydrographic and resource survey data, existing / proposed shoreline stabilization structures. and typical design details to assist the CONSULTANT in illustrating the Project intent to the regulatory agency(ies). These preliminary permit sketches will be used to illustrate proposed improvements to regulatory agency staff during the pre-Application consultations. A purpose of the pre-Application consultations shall be to confer with the SFWMD and the FDEP as to which agency will take jurisdiction of the Project if there are combined upland storm water management and in / over water shoreline improvement elements. CONSULTANT shall also discuss with regulatory agency staff the proposed design components that may fall under their jurisdiction, primarily over / in-water elements such as decks, fill, shoreline stabilization, and / or vegetation. Potential levels of review / permitting requirements based upon preliminary project concepts will also be discussed with the regulatory agencies (Nationwide Permit vs. Letter of Permission vs. Individual Permit with the ACOE; General Permit vs. Standard General Permit with the State). State lands restrictions and additional setback requirements will also be reviewed. CONSULTANT shall also discuss with agency staff the proposed design elements of the Project relative to applicable regulations, and obtain feedback as to the potential acceptability of conceptual design elements. Potential mitigation requirements will also be discussed. This information is required to formulate a strategy for development of potentially feasible over and / or in water alternate project elements.

CONSULTANT shall prepare meeting minutes of each pre-Application meeting summarizing topics of discussion and conclusions reached.

Deliverables: Prepare and attend pre-Application meetings.

Prepare meeting minutes.

Deliver five (5) sets of preliminary permit sketches to PROGRAM

MANAGER with accompanying electronic files.

Schedule: Within 90 calendar days after Task 5.1.9 completion.

Task 5.1.11 – Second Review Meeting with City Staff:

CONSULTANT shall attend one (1) meeting with CITY staff to review the conclusions reached at the pre-Application meeting(s) and to discuss Project modifications, if any. CONSULTANT shall be prepared to discuss impacts to the Project / budget based upon its discussions with the regulatory agencies at the pre-Application meeting(s). It is anticipated that the CITY will provide CONSULTANT with sufficient input to allow CONSULTANT to finalize one conceptual design approach. PROGRAM MANAGER will prepare meeting minutes. CONSULTANT should anticipate a level of effort to revise its conceptual design elements based upon the CITY's observations.

Deliverables: Prepare and attend Review Meeting.

Deliver five (5) sets of Conceptual Design Elements to PROGRAM

MANAGER with accompanying electronic files.

Schedule: Within 15 calendar days after Task 5.1.10 completion.

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Task 5.1.12 - Final Conceptual Design:

CONSULTANT shall incorporate into the conceptual design those modifications identified as warranted / preferable by the CITY during the review meeting given regulatory, budgetary and other considerations. CONSULTANT shall prepare its final preliminary "budget" level cost estimates (+30%, -15% as defined by the American Association of Cost Engineers) for the final conceptual design. Estimates shall present costs by category types (i.e. paving, lighting, landscaping, etc.) and shall be prepared in a Microsoft Excel Spreadsheet format. PROGRAM MANAGER shall provide a template for the requisite cost estimate format to CONSULTANT.

Deliverables: Deliver five (5) sets of Final Conceptual Design to PROGRAM MANAGER

with accompanying electronic files.

Schedule: Within 60 calendar days after Task 5.1.11 completion.

Task 5.1.13 – Community Design Review Meetings:

CONSULTANT shall attend and participate in up to two (2) community design review meetings to review the design progress and concept at different levels during the design. The CITY will schedule, find locations for, and notify residents of all such meetings. CONSULTANT shall prepare all materials for presentation. At a minimum these shall include "full-size" graphics / renderings, a summary of cost estimates, workshop agendas and requisite handouts of each. Electronic files for each shall be provided to the CITY for posting on its web page. CONSULTANT shall prepare draft meeting minutes and forward them to PROGRAM MANAGER, who shall review, provide comments and distribute, accordingly.

TASK 5.6 - REIMBURSABLES

Task 5.6.1 - Reproduction Services:

CONSULTANT shall be reimbursed at the usual and customary rate for reproduction of reports, contract documents and miscellaneous items, as required to perform the services as outlined above. Unused amounts in this allowance shall be credited back to the CITY at the completion of the project.

Task 5.6.2 - Travel and Subsistence:

CONSULTANT shall be reimbursed at the United States Internal Revenue Service established rate for travel and subsistence, up to the maximum not-to-exceed amount as noted. Unused amounts in this allowance shall be credited back to the CITY at the completion of the project.

<u>Task 5.6.3 – Surveying - Topographic:</u>

CONSULTANT shall arrange for and coordinate the efforts of licensed surveyors to prepare a topographic survey within the project limits to meet the requirements as set forth in sub-tasks 5.1.4 a. Unused amounts in this allowance shall be credited back to the CITY at the completion

of the project.

Task 5.6.4 - Surveying - Hydrographic:

CONSULTANT shall arrange for and coordinate the efforts of licensed surveyors to prepare a hydrographic survey within the project limits to meet the requirements as set forth in sub-tasks 5.1.4 b. Unused amounts in this allowance shall be credited back to the CITY at the completion of the project.

Task 5.6.5 - Geotechnical Evaluation:

CONSULTANT shall conduct a preliminary field exploration program to identify typical geotechnical conditions and ascertain the sub surface conditions within the proposed project area to meet the requirements as set forth in sub-task 5.1.7."

b. Schedule B entitled Consultant Compensation, is amended as follows:

ADD the attached Schedule B-1.

c. Schedule C entitled Project Schedule, is amended as follows:

After Task 5 Additional Services, ADD the following:

"Task 5.1 Indian Creek Greenway Phase 1321 Days"

3. OTHER PROVISIONS

All other provisions of the Agreement, as amended, are unchanged, and shall remain in force and effect.

4. RATIFICATION

The CITY and CONSULTANT ratify the terms of the Agreement, as amended, as modified by this Amendment No. 1.

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Exhibit B Indian Creek Greenway Lump Sum Fee Estimate

Contract Billing Rate

Part 1 - Pa	re-Design Services	Lump Sum Cost per Item
5.1.1	Data Collection	\$6,751.80
5.1.2	Project Kick-off Meeting	\$2,905.58
5.1.3	Site Reconnaissance Visit	\$4,699.06
5.1.4	Field Verification of Existing Conditions	\$3,668.56
5,1.5	Final Base Map	\$10,169.68
5.1.6	Permitting Requirements	\$5,029.38
5.1.7	Geotechnical Investigations	\$1,266.74
5.1.8	Refined Conceptual Design & Budget	\$19,212.38
5.1.9	Initial Review Meeting w/ City Staff	\$3,591.18
5.1.1	Pre-Application & Permit Sketches	\$11,080.96
5.1.11	Second Review Meeting w/ City Staff	\$3,591.18
5.1.12	Final Conceptual Design	\$18,004.18
5.1.13	Community Design Review Meetings (2)	\$12,259.86

Labor Summary

		Subtotal	\$102,230.54
Part 6 - R	eimbursable Costs		
5.6.1	Reproduction Services		\$5,000.00
5.6.2	Travel & Subsistence		\$5,000.00
5.6.3	Survey - Upland		\$9,800.00
5.6.4	Survey - Marine		\$8,500.00
5.6.5	Survey - Seawall / Benthos		\$5,200.00
5.6.6	Geotechnical Investigations		\$4,000.00
		Subtotal	\$37,500.00
	Total Fees Including all	Direct Costs	\$139,730.54

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PROJECT AREA MID-BEACH SOUTH SOUTH BEACH

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EXHIBIT 'C'

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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Setting of Public Hearing – Pursuant to Miami Beach City Code Section 118-262, to review a Design Review Board decision rendered on June 1, 2004, requested by the Oceanside At Fisher Island Condominium Association No. 5, Inc., (DRB File No. 17666)

Issue:

Pursuant to Miami Beach City Code Section 118-262, the Administration is requesting that the Mayor and City Commission schedule a Public Hearing on July 28, 2004 to review a decision of the Design Review Board pertaining to DRB File No. 17666, requested by the Oceanside At Fisher Island Condominium Association No. 5, Inc.

Item Summary/Recommendation:

Adopt the Resolution scheduling a Public Hearing on July 28, 2004.

Advisory Board Recommendation:

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			

City	Clerk's	Office	Legis	lative	Tracking:
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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING PURSUANT TO MIAMI BEACH CITY CODE SECTION 118-262, TO REVIEW A DESIGN REVIEW BOARD DECISION REQUESTED BY THE OCEANSIDE AT FISHER ISLAND CONDOMINIUM ASSOCIATION NO. 5, INC.

PERTAINING TO DRB FILE NO. 17666.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Pursuant to City Code Section 118-262, Mr. Jeffrey S. Bass, Esq., Law Offices of Shubin & Bass, on behalf of the Oceanside At Fisher Island Condominium Association No. 5, Inc., is requesting an appeal of the Design Review Board decision rendered on June 1, 2004, (DRB File No. 17666). Mr. Bass' request letter is attached.

The Design Review Section of the Miami Beach Code allows the applicant, or the city manager on behalf of the city administration, or an affected person, Miami Design Preservation League or Dade Heritage Trust to seek a review of any Design Review Board Order by the City Commission. For purposes of this section, "affected person" shall mean either (i) a person owning property within 375 feet of the applicant's project reviewed by the board, or (ii) a person that appeared before the Design Review Board (directly or represented by counsel), and whose appearance is confirmed in the record of the Design Review Board's public hearing(s) for such project.

Pursuant to Section 118-262 of the Miami Beach Code, the review by the City Commission is not a "de novo" hearing. It must be based upon the record of the hearing before the Design Review Board. Furthermore, Section 118-262 (b) states the following:

In order to reverse, or remand for amendment, modification or rehearing any decision of the Design Review Board, the City Commission shall find that the Design Review Board did not do one of the following:

- 1) provide procedural due process
- 2) observe essential requirements of law, or

3) base its decision upon substantial, competent evidence.

In order to reverse or remand a decision of the DRB, a 5/7th vote of the City Commission is required.

CONCLUSION

The Administration recommends setting a public hearing on July 28, 2004 to review a decision of the Design Review Board pertaining to DRB file No. 17666.

T:\AGENDA\2004\Jul0704\Consent\Palazzo Del Mar CM.doc

RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING PURSUANT TO MIAMI BEACH CITY CODE SECTION 118-262, TO REVIEW A DESIGN REVIEW BOARD DECISION REQUESTED BY THE OCEANSIDE AT FISHER ISLAND CONDOMINIUM ASSOCIATION NO. 5, INC.

WHEREAS, a process for review by the Mayor and City Commission of decisions rendered by the Design Review Board when requested by an applicant or any affected person has been established under Section 118-262 of the Miami Beach City Code; and

WHEREAS, Mr. Jeffrey S. Bass, Esq., Law Offices of Shubin & Bass, on behalf of the Oceanside At Fisher Island Condominium Association No. 5, Inc., is requesting an appeal of the Design Review Board decision rendered on June 1, 2004, (DRB File No. 17666) which has been timely filed for such review.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby schedule a public hearing on July 28, 2004 to consider the review of a Design Review Board decision in DRB File No. 17666 as requested by the Oceanside at Fisher Island Condominium Association No. 5, Inc.

PASSED and ADOPTED this 7th day of July, 2004.

ATTEST:			
CITY CLERK		MAYOR	
APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION	7		

T:\AGENDA\2004\Jul0704\Consent\Palazzo Del Mar reso.doc

SHUBIN & BASS

PROFESSIONAL ASSOCIATION

VIA HAND DELIVERY

June 18, 2004

Mr. Robert Parcher City Clerk City of Miami Beach 1700 Convention Center Drive Miami Beach, FL 33139



Re: Appeal of 7100 Fisher Island Drive - Palazzo Del Mar; DRB File No. 17666 - Rendered June 1, 2004

Dear Mr. Parcher:

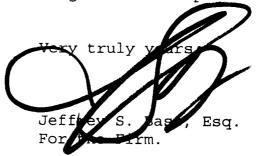
This correspondence is transmitted to you pursuant to Miami Beach City Code § 118-262 ("Code") and it shall serve as a notice of appeal of the above-referenced order of the City of Miami Beach Design Review Board ("DRB") rendered on June 1, 2004 (copy attached). It is my understanding that the applicable appellate filing fee is \$500.00 and, accordingly, I have enclosed a check in that amount. If the appellate filing fee should somehow differ from the enclosed amount, kindly advise as soon as possible and I shall tender the difference forthwith.

This appeal is filed on behalf of the Oceanside at Fisher Island Condominium Association No. 5, Inc. (the "Association"), who possess standing to file this appeal under Code §§ 118-262(a)(i)-(ii) and Florida law. The verbatim transcripts of the proceedings before the DRB have been prepared and shall be timely filed in accordance with the terms of the Code.

A plain reading of the Code suggests that this correspondence contains the entirety of the necessary contents for filing an appeal from the DRB to the City Commission. In this regard, the Code does not specifically

require that a notice of appeal set forth the specific basis for the appeal at the time of filing. If my reading of the Code differs from your reading, kindly advise and I shall supplement this notice to include the arguments that necessitate and justify quashal of the DRB's order.

As always, please do not hesitate to contact me if you have any questions concerning this correspondence.



Enc.

cc: Mr. Gary Held, Esq.

Mr. Cliff Schulman, Esq.

Mr. Jorge Gomez



DESIGN REVIEW BOARD City of Mlami Beach, Florida

MEETING DATE:

May 18, 2004

IN RE:

The Application for Design Review Approval for the construction of an eleven (11) story multi-family residential building.

FILE NO:

 \sim

9

17666

PROPERTY:

7100 Fisher Island Drive - Palazzo Del Mar

ORDER

The applicant, Fisher Island Holdings, filed an application with the City of Miami Beach Planning Department for Design Review Approval.

The City of Miami Beach Design Review Board makes the following FINDINGS OF FACT, based upon the evidence, information, testimony and materials presented at the public hearing and which

- Based on the plans and documents submitted with the application, testimony and A. information provided by the applicant, and the reasons set forth in the Planning Department Staff Report, the project as submitted is not consistent with Design Review Criteria 3 in B,
- The project would be consistent with the criteria and requirements of section 118-251 if the following conditions are met:

Revised elevation, site plan and floor plan drawings shall be submitted to and approved by staff; at a minimum, such drawings shall incorporate the following:

- Shaded F.A.R. drawings and calculations shall be submitted for the subject building, as well as the existing building on site,
- Grade elevation, as defined by the City of Miami Beach shall be referenced b. C.
- Revised parking calculations shall be submitted, showing the required parking provided for the buildings amenities areas.
- The lobby level guest suite, as well as the detached lobby level guesthouse ď. shall not be sold separate from one of the main living units in the building.

A revised landscape plan, prepared by a Professional Landscape Architect, registered in the State of Florida, and corresponding site plan, shall be submitted to and approved by staff. The species type, quantity, dimensions, spacing, location and overall height of all plant material shall be clearly delineated and subject to the

review and approval of staff. At a minimum, such plan shall incorporate the following:

- All exterior walkways shall consist of decorative pavers, set in sand or other semi-pervious material, subject to the review and approval of staff.
- b. All landscape areas abutting driveways and parking areas shall be defined by decorative bollards.
- c. A fully automatic irrigation system with 100% coverage and an automatic rain sensor in order to render the system inoperative in the event of rain. Right-of-way areas shall also be incorporated as part of the irrigation system.
- d. The landscape plan shall satisfy all requirements as specified in Chapter 18a of the Miami-Dade County Code. A landscape table shall be provided on final landscape plans addressing all minimum quantity and native requirements, subject to the review and approval of staff.
- e. Backflow preventors and any other type of utility device shall not be permitted within any required yard or any area fronting a street or sidewalk. The location of backflow preventors, siamese pipes or FPL boxes, if any, and how they are screened with landscape material from the right-of-way, shall be indicated on the plans and shall be subject to the review and approval of staff.
- 3. All building signage shall be consistent in type, composed of flush mounted, non-plastic, not illuminated, individual letters and shall require a separate permit.
- The final exterior surface color scheme, including color samples, shall be subject to the review and approval of staff and shall require a separate permit.
- 5. A traffic mitigation plan, which addresses all roadway Level of Service (LOS) deficiencies relative to the concurrency requirements of the City Code, if required, shall be submitted prior to the issuance of a Building Permit and the final building plans shall meet all other requirements of the Land Development Regulations of the City Code.
- 6. Manufacturers drawings and Dade County product approval numbers for all new windows, doors and glass shall be required, <u>prior</u> to the issuance of a building permit.
- All roof-top fixtures, air-conditioning units and mechanical devices shall be clearly noted on a revised roof plan and shall be screened from view, in a manner to be approved by staff.
- 8: All new and altered elements, spaces and areas shall meet the requirements of the Florida Accessibility Code (FAC).



Page 3 of 4 Meeting Date: May 18, 2004 DRB File No. 17666

- The applicant may be required to submit a separate analysis for water and sewer requirements, at the discretion of the Public Works Director, or designee. Based on a preliminary review of the proposed project, the following may be required by the Public Works Department:
 - a. Remove/replace sidewalks, curbs and gutters on all street frontages, if applicable.
 - b. Mill/resurface asphalt in rear alley along property, if applicable.
 - c. Provide underground utility service connections and on-site transformer location, if necessary.
 - Provide back-flow prevention devices on all water services.
 - e. Provide on-site, self-contained storm water drainage for the proposed development.
 - f. Meet water/sewer concurrency requirements including a hydraulic water model analysis and gravity sewer system capacity analysis as determined by the Department and the required upgrades to water and sewer mains servicing this project.
 - g. Payment of City utility impact fees for water meters/services.
 - h. Provide flood barrier ramps to underground parking or minimum slab elevation to be at highest adjacent crown road elevation plus 8".
 - Right-of-way permit must be obtained from Public Works.
 - All right-of-way encroachments must be removed.
 - All planting/landscaping in the public right-of-way must be approved by the Public Works and Parks Departments.
- The project shall comply with any landscaping or other sidewalk/street improvement standards as may be prescribed by a relevant Urban Design Master Plan approved prior to the completion of the project and the issuance of a Certificate of Occupancy.
- The Final Order is not severable, and if any provision or condition hereof is held void or unconstitutional in a final decision by a court of competent jurisdiction, the order shall be returned to the Board for reconsideration as to whether the order meets the criteria for approval absent the stricken provision or condition, and/or it is appropriate to modify the remaining conditions or impose new conditions.

IT IS HEREBY ORDERED, based upon the foregoing findings of fact, the evidence, information, testimony and materials presented at the public hearing, which are part of the record for this matter, and the staff report and analysis, which are adopted herein, including the staff recommendations which were amended by the Board, that the Application for Design Review

approval is GRANTED for the above-referenced project subject to those certain conditions specified in Paragraph B of the Findings of Fact (Condition Nos. 1-11, inclusive) hereof, to which the applicant has agreed.

No building permit may be issued unless and until all conditions of approval as set forth herein have been met. The issuance of Design Review approval does not relieve the applicant from obtaining all other required Municipal, County and/or State reviews and permits, including zoning approval. If adequate handicapped access is not provided, this approval does not mean that such handicapped access is not required or that the Board supports an applicant's effort to seek waivers relating to handicapped accessibility requirements.

When requesting a building permit, three (3) sets of plans approved by the Board, modified in accordance with the above conditions, as well as annotated floor plans which clearly delineate the Floor Area Ratio (FAR) calculations for the project, shall be submitted to the Planning Department. If all of the above-specified conditions are satisfactorily addressed, the plans will be reviewed for building permit approval. Two (2) sets will be returned to you for submission for a building permit and one (1) set will be retained for the Design Review Board's file.

If the Full Building Permit is not issued within eighteen (18) months of the meeting date at which this Design Review Approval was granted and construction does not commence and continue in accordance with the requirements of the applicable Building Code, the Design Review Approval will expire and become null and void, unless the applicant, prior to expiration of such period, makes application to the Board for an extension of time; the granting of any such extension of time shall be at the discretion of the Board. At the hearing on any such application, the Board may deny or approve the request and modify the above conditions or impose additional conditions. Failure to comply with this Order shall subject the Design Review Approval to Section 118-258, City Code, for revocation or modification of the Design Review Approval.

Dated this	day of JUNE, 20 04.
<u>!</u> !	DESIGN REVIEW BOARD THE CITY OF MIAMI BEACH, FLORIDA
•	BY: Hu L Morary
	THOMAS R. MOONEY, AICP DESIGN AND PRESERVATION MANAGER
}	FOR THE CHAIR
Approved A	As To Form: The state of the s
Filed with t	the Clerk of the Design Review Board on 6/1/04 (Caff)
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Miscellaneous Cash Receipt CITY OF MIAMI BEACH	
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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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A Resolution of the Mayor and City Commission Amending City Of Miami Beach Resolution No. 2004-25468 So As To Reestablish The City Of Miami Beach Ad Hoc Charter Review And Revision Board's Existence For A Period Of Two Months, With Board Terms Commencing On August 7, 2004 And Expiring On October 7, 2004 (Subject To Earlier Sunset By The City Commission).

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Shall the Miami Beach Ad Hoc Charter Review And Revision Board's Existence Be Extended for an additional two months?

<u>Item</u>	Summar	y/Recon	nmendat	ion:

Adopt the Resolution.

Advisory Board Recommendation:

The Chairman of the Miami Beach Ad Hoc Charter Review And Revision Board recommends extending the term for an additional two months.

Financial Information:

Approved
l

City Clerk's Office Legislative Tracking:

Robert Parcher, City Clerk

Sian-Offs:

Department Director	Assistant City Manager	City Manager
2 Pale		Jones
1 0/1100		Jan 2

T:\AGENDA\2004\Jul0704\Consent\CRB extension Sum.doc

Agenda Item	<u> </u>
Date	7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

A Resolution Amending City Of Miami Beach Resolution No. 2004-25468 So As To Reestablish The City Of Miami Beach Ad Hoc Charter Review And Revision Board's Existence For A Period Of Two Months, With Board Torme Common size

Board's Existence For A Period Of Two Months, With Board Terms Commencing On August 7, 2004 And Expiring On October 7, 2004 (Subject To Earlier Sunset By

The City Commission).

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND:

The Mayor and City Commission via Resolution 2003-25124 created the City of Miami Beach Ad Hoc Charter Review and Revision Board under authority of Section 8.01 of the Miami Beach City Charter mandating that the Charter "... be reviewed ten years from November 3rd, 1993 and each tenth year thereafter." City of Miami Beach Resolution 2004-25468 reestablished the existence of the Board for a period of six months, with board terms commencing on February 5, 2004 and expiring on August 6, 2004. The Chairman of the Charter Review Board has now requested that the term of the Board be extended for an additional two months, commencing on August 7, 2004 and expiring on October 7, 2004, subject to earlier sunset by the City Commission.

T:\AGENDA\2004\Jul0704\Consent\CRB extension CM.doc

RESOL	UTION	NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CITY OF MIAMI BEACH RESOLUTION NO. 2004-25468 SO AS TO REESTABLISH THE EXISTENCE OF THE CITY OF MIAMI BEACH AD HOC CHARTER REVIEW AND REVISION BOARD FOR AN ADDITIONAL PERIOD OF TWO MONTHS, WITH BOARD TERMS COMMENCING ON AUGUST 7TH, 2004 AND EXPIRING ON OCTOBER 7TH, 2004 (SUBJECT TO EARLIER SUNSET BY THE CITY COMMISSION).

WHEREAS, the Mayor and City Commission of the City of Miami Beach, Florida, via its Resolution No. 2003-25124, created the City of Miami Beach Ad Hoc Charter Review and Revision Board under authority of Section 8.01 of the Miami Beach City Charter mandating that the Charter "...shall be reviewed ten years from November 3rd, 1993 and each tenth year thereafter; and

WHEREAS, City Miami Beach Resolution No. 2003-25124 provided that Charter Review Board terms were to commence on February 5th, 2003 and expire on February 4th, 2004 (subject to earlier sunset by the City Commission); and

WHEREAS, in City of Miami Beach Resolution No. 2004-25468, the terms of the Charter Review Board were extended for a period of six months, expiring on August 6th, 2004; and

WHEREAS, inasmuch as the Charter Review Board is considering "good government" issues for possible Charter Amendment, the Board's Chairman has requested that the Board's terms be extended for an additional two months, with terms commencing on August 7th, 2004 and expiring on October 7th, 2004 (subject to earlier sunset by the City Commission).

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the City of Miami Beach Ad Hoc Charter Review and Revision Board is hereby reestablished for a term of two months, with membership terms commencing on August 7th, 2004 and expiring on October 7th, 2004 (subject to earlier sunset by the City Commission).

PASSED and ADOPTED this	s, 2004.
ATTEST:	
	MAYOR
CITY CLERK	_

JKO\ed

F:\atto\OLIJ\RES-ORD\Amend Reso 2004-25468 AdHoc(Revise to 2 month).doc

APPROVED AS TO FORM & LANGUAGE .& FOR EXECUTION

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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A resolution consenting to the appointment of Kathie G. Brooks as Director of the Office of Budget and Performance Improvement.

Issue:

Shall the City Commission consent to the appointment of Kathie G. Brooks as Director of the Office of Budget and Performance Improvement?

Item Summary/Recommendation:

Kathie G. Brooks comes to the City of Miami Beach with more than 20 years experience in public administration with Miami-Dade County, including a strong background in budgeting, finance, management, strategic planning, performance improvement and measurement. Most recently, Kathie served as the Assistant Director of Management Planning and Strategy for the Miami-Dade County Office of Strategic Business Management, an office whose function is very similar to our Office of Budget and Performance Improvement.

The Administration recommends adopting the resolution.

Advisory Board Recommendation:	
N/A	

Financial Information:

Source of	Amount	Account	Approved
Funds:	A STATE OF THE STA		
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	3.55		
	40		
inance Dept.	Total		

City Clerk's Office Legislative Tracking:

Ramiro Inguanzo, Chief of Staff

Sian-Offs:

epartment Director Assistant City Manager	City Manager
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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE

CITY OF MIAMI BEACH, FLORIDA CONSENTING TO THE APPOINTMENT OF KATHIE G. BROOKS AS DIRECTOR OF THE OFFICE

OF BUDGET AND PERFORMANCE IMPROVEMENT.

ADMINISTRATION RECOMMENDATION

Pursuant to the requirements of Article IV, Section 4.02 of the City Charter it is recommended that the Mayor and City Commission adopt the Resolution consenting to the appointment of Kathie G. Brooks as the Director of the Office of Budget and Performance Improvement.

ANALYSIS

In January 2004, a new office that focuses on strategic planning, performance, accountability and results was created. While this new office has continued to perform a variety of current support services, it has also been a focal point for an expanded organizational improvement initiative. This office has been specifically tasked with the review, analysis and development of internal systems, processes, management techniques, and approaches to help the entire organization stay continually focused on how we can be better at what we do, both internally and externally. The significance of this new office is that they will have the ongoing responsibility to address citywide performance issues. While each department and individual staff member is already responsible for this, all too often in the pursuit of specific department goals and problem resolution, the attention to process or procedure improvement is lost. This new office will have this focus as an ongoing assignment and will give a strategic view of cross departmental issues to the entire organization. This office is called the Office of Budget and Performance Improvement and includes Budget, Internal Audit, Grants Management, and the Organizational Development group. The office is staffed with existing positions.

Through the creation of this office, one key area, the budget process, will be enhanced in order to better embrace the direction of the City Commission, and the needs and desires of our citizens. The budget process will become an even more informed decision-making process and will incorporate performance and outcome measures so that decisions of the City Commission are priority based and the delivery of City services are consistent with those priorities. The budget function will also grow to include on-going review analysis during the fiscal year to assist all departments with areas for improvement.

The expanded budget role fits together with an expanded Internal Audit, Grants Management, and Organizational Development role that will all work together to be the internal review and analysis function of the City's various activities and services so as to continually strive to improve and add value. This focus on organizational assessment and development will significantly assist the entire organization to change and improve as we move forward in accomplishing our vision and goals.

In appointing Kathie Brooks as the first Director of the Office of Budget and Performance Improvement, she brings to the City more than 20 years experience in public administration with Miami-Dade County, including a strong background in budgeting, finance, management, strategic planning, performance improvement and measurement. A detailed resume and professional summary of Kathie's employment history is attached for your review.

Most recently, Kathie served as the Assistant Director of Management Planning and Strategy for the Miami-Dade County Office of Strategic Business Management, an office whose function is very similar to our Office of Budget and Performance Improvement. As the Assistant Director, Kathie was responsible for working with the County Budget staff to ensure that financial resources were aligned with the County's strategic plan and priorities and working to ensure that each Department in the County developed a business plan that tied in to the County's strategic plan and that performance measures were developed as part of these plans.

Prior to that position, Kathie served as the Strategic Plan Coordinator for the Miami-Dade County Office of Performance Improvement. In this position, she was responsible for the development and implementation of the first-ever integrated countywide strategic plan for Miami-Dade County government.

From 1991 to 2001, Kathie was the Assistant Director of Finance and Planning for the Miami-Dade County Department of Solid Waste Management where she managed all financial, procurement, planning, information services and human resources functions for the Department of Solid Waste Management. The Department's total operating and capital budget during Kathie's tenure was approximately \$220 million.

Prior to this position, Kathie served in a number of other positions with Miami-Dade County, including Chief of Management and Budget in the Department of Waste Management, a Manager of Transportation Planning and Metromover Development, and a Principal Planner / Transit Research Supervisor with the Miami-Dade Transit Agency.

CONCLUSION

While in most Council/Manager forms of government, City Managers are typically granted broad authority to select key department heads; a provision in the City Charter requires consent by the Commission. Therefore, it is recommended that the Mayor and City Commission adopt the resolution.

JMG/RI/Icd

Attachments

T:\AGENDA\2004\Jul0704\Regular\Kathie Brooks Comm Memo.doc

RESOLUTION NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CONSENTING TO THE APPOINTMENT OF KATHIE G. BROOKS AS DIRECTOR OF THE OFFICE OF BUDGET AND PERFORMANCE IMPROVEMENT.

WHEREAS, the City Manager has appointed Kathie G. Brooks to serve as the City's first Director of the newly created Office of Budget and Performance Improvement; and,

WHEREAS, pursuant to Section 4.02 of the City of Miami Beach Charter, the City Manager has the power to appoint directors of City departments with the consent and confirmation of the Mayor and City Commission; and,

WHEREAS, the Mayor and City Commission wish to consent and confirm the appointment of Kathie G. Brooks as the Director of the Office of Budget and Performance Improvement.

NOW, THEREFORE BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby consent to and confirm the appointment of Kathie G. Brooks as the Director of the Office of Budget and Performance Improvement.

PASSED and ADOPTED t	this day of, 2004.	
ATTEST:		
CITY CLERK	MAYOR	

T:\AGENDA\2004\Jui0704\Regular\KATHIE BROOKS RESOLUTION NO.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney Date Date

96

Office of the City Manager Letter to Commission No. 14542004



To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

KATHIE BROOKS

Date: June 9, 2004

OL JUN -8

This Letter to the Commission is to inform you of a recent appointment I have that in the Administration. Effective Tuesday, June 8, 2004, Kathie Brooks joined the Cip of Miami Beach as the Director of the Office of Budget and Performance Improvement (OBPI). The Office of Budget and Performance Improvement includes the areas of Management and Budget (OMB), Internal Audit, Grants Management and Organizational Development. This position will report directly to me.

Kathie comes to us with more than 20 years experience in public administration with Miami-Dade County, including a strong background in budgeting, finance, management, strategic planning, performance improvement and measurement. In addition, Kathie has lived on Miami Beach for more than 18 years. A detailed resume and professional summary of Kathie's employment history is attached for your review.

Most recently, Kathie served as the Assistant Director of Management Planning and Strategy for the Miami-Dade County Office of Strategic Business Management, an office whose function is very similar to our Office of Budget and Performance Improvement. As the Assistant Director, Kathie was responsible for working with the County Budget staff to ensure that financial resources were aligned with the County's strategic plan and priorities and working to ensure that each Department in the County developed a business plan that tied in to the County's strategic plan and that performance measures were developed as part of these plans.

Prior to that position, Kathie served as the Strategic Plan Coordinator for the Miami-Dade County Office of Performance Improvement. In this position, she was responsible for the development and implementation of the first-ever integrated countywide strategic plan for Miami-Dade County government.

From 1991 to 2001, Kathie was the Assistant Director of Finance and Planning for the Miami-Dade County Department of Solid Waste Management where she managed all financial, procurement, planning, information services and human resources functions for the Department of Solid Waste Management. The Department's total operating and capital budget during Kathie's tenure was approximately \$220 million.

Prior to this position, Kathie served in a number of other positions with Miami-Dade County, including as a Chief of Management and Budget in the Department of Waste Management, a Manager of Transportation Planning and Metromover Development and a Principal Planner/Transit Research Supervisor with the Miami-Dade Transit Agency.

Please join me in welcoming Kathie to our team. I am sure that you will find her to be highly qualified and professional. Should you have any questions, please feel free to contact me.

JMG\ri

Attachment

c: Management Team

F:/cmgr/all/LTC04/KathieBrooks

SSN: 265-85-7310 6039 LA GORCE DRIVE

MIAMI BEACH, FL 33140 305-867-7876 (Home) 305-349-6131 (Work) 305-321-7876 (Cell)

EMPLOYMENT HISTORY

2003 – 2004 Assistant Director, Management Planning and Strategy
Miami-Dade County, Office of Strategic Business Management

Highly responsible management position accountable for Strategic Planning and Management within the Office of Strategic Business Management (OSBM). The position provides direct policy support to the County Manager's Office related to development and multi-year implementation of a framework for results-oriented government and performance excellence. Responsibilities include the implementation of and updates to a Countywide Strategic Plan, implementation of a performance management system; and communicating the results-oriented government strategy throughout the organization and to the community. Focus includes developing, coordinating supporting departmental business plans and performance measures; providing liaison functions with the Budget staff within OSBM to ensure, through the budget process, that financial resources, policy, department operations and County staff are all aligned to achieve results; providing liaison functions with the Employee Relations Department, the Chief Information Officer for the County, the Communications Department and Enterprise Technology Services to ensure that everyone in our organization is aware of his/her unique role in achieving the County's Strategic Plan and supporting the Departmental Business Plan; and deploying performance excellence throughout the organization.

Accomplishments:

- Developed and implemented the Miami-Dade County framework for Delivering Excellence Through Results-Oriented framework, recognized by the Washington-based think tank, the Performance Institute, for its 2004 Performance Management Award.
- ✓ Coordinated and provided assistance in the development of department business plans in support of the Countywide Strategic Plan; including required format, training, etc. All Department business plans are available through the internet
- Coordinated the development and implementation of a results-oriented approach to the County's budgeting
 process, including recommendation of methodologies to allocate resources based on Countywide Strategic Plan
 priorities; and report formats to communicate this information to the community
- ✓ Coordinated and provides assistance in the development of individual performance objectives for senior management appraisals in the County Manager's Office and in all County departments in support of department business plans
- Coordinated development of communications plans and training curriculum for results-oriented government and performance excellence to ensure full understanding throughout the organization, including development of a delivering excellence website.
- Directed and performed outreach with departments, elected officials and the community at large regarding the County's strategic plan, results-oriented government, etc

2001 – 2003 Strategic Plan Coordinator Miami-Dade County, Office of Performance Improvement

Responsible for the development and implementation of the first-ever integrated countywide strategic plan for Miami-Dade County government. Responsibilities include outreach and consensus building with elected officials, County Manager's Assistants, Department Directors and the public at large; and developing work plans and managing consultants for the project.

Accomplishments:

- Developed and simultaneously coordinated eight planning teams comprised of Assistant County Managers, department directors, planning support staff, community leaders, elected officials, business groups, etc.
- ✓ Conducted surveys, workshops and focus groups with residents, employees, elected officials, executives, etc.
- Assessed countywide trends and evaluated strengths, weaknesses, opportunities and challenges.
- Developed county government's first-ever mission statement, value statement, and nine priority themes to guide the process. These were endorsed by the Board of County Commissioners on May 21, 2002.

- Developed strategic goals covering all areas of service delivery including economic development, health and human services, neighborhood services, public safety, culture and recreation and transportation. These support the county's mission and align with the priority themes.
- Organized and conducted the county's strategic planning community event, with several hundred participants to develop and prioritize recommended actions to achieve the goals.
- ✓ Developed key intended outcomes, strategies and preliminary performance objectives and measures for each goal incorporating input from the community event and planning teams. These were endorsed by the Board of County Commissioners on June 3, 2003.
- Drafted goals, strategies and preliminary performance measures for internal functions required to support the service delivery plans
- Coordinated linkage between the Countywide strategic plan, annual department business plans and the budget process
- Responsible for plan deployment and other components of performance excellence including:
 - Dissemination of the plan throughout the community and the organization
 - Coordination with Employee Relations regarding plan-related training enhancements to the County's employee orientation and supervisory training programs
 - Coordination of interface to performance appraisal systems
 - Enhancements to departmental quarterly performance reporting

1991 – 2001 Assistant Director, Finance and Planning Miami-Dade County, Department of Solid Waste Management

Managed all financial, procurement, planning, information services and human resources functions for the Department of Solid Waste Management, including responsibility for all performance and financial reporting, resolution of accounting issues, coordination with outside bond rating agencies, operating and capital budgets of approximately \$200 million and \$20 million per year respectively, organizational reviews and efficiency studies, all departmental service and construction contract development and administration, development and implementation of long-range and strategic plans, recruitment, labor relations and contract negotiation, and payroll.

Directly responsible for four professional divisions, an 80 member staff and \$6 million in annual expenditures.

Provided primary support to the department director for policy recommendations and decisions, including the development of all legal mechanisms required to support these decisions such as proposed ordinances, administrative orders, and coordination of the department's agenda items for the Board of County Commissioners.

Representative Accomplishments:

- Served as only solid waste issuer member of sub-committee for the development of the National Federation of Municipal Analysts (NFMA) Recommended Best Practices in Disclosure of Solid Waste Transactions (issued November 2001).
- ✓ Served as the department liaison with the County Manager's appointed management team in developing the Department of Solid Waste Management's first ever strategic plan 1995 Strategic Plan for Metropolitan Dade County Solid Waste Management. As liaison coordinated all department and consultant plan development efforts and subsequent implementation.
 - The plan provided business recommendations to ensure the long-term stability of the county's solid waste department in response to the changing solid waste environment of the 1990's.
 - A critical component of the plan was the organizational review and resulting rightsizing of the Department, with the successful reduction in \$28 million in costs and over a 20 percent reduction in the number of employees.
 - The plan and its implementation resulted in an upgrade in the ratings for the county's solid waste revenue bonds.
- Department of Solid Waste Management liaison with investment firms and bond rating agencies, including Standard and Poors', Moody's Investment Services, Fitch IBCA, MBIA, etc., including development of 5 and 20 year financial capacity plans for the department. Member of the County's Manager's Financial Advisory Committee.

Negotiations

Served as a member of the County Manager's Negotiating Committee for Martin Luther King Metrorail Station joint development project successfully negotiating the innovative private-public partnership agreements with

4/04

the BAC Funding Corporation (BAC), a Florida not-for-profit corporation for development and construction of an administrative office, lease of the facility and a purchase option by the County. The innovative nature of the agreement provided for the cash flow received by BAC to be utilized for not-for profit community and economic development purposes as defined under the BAC charter.

- Member of the negotiating team for various contract amendments with the private operator of the county's Resources Recovery Facility, an operations and maintenance agreement of \$60 million per year.
- Member of the negotiating team for AFSCME labor agreements pertaining to the solid waste employees for Miami-Dade County.
- Department lead in the expedited procurement of the \$82 million Hurricane Andrew Debris Disposal contract.
- Coordinated reimbursement of over \$100 million in Hurricane Andrew related expenses from the Federal Emergency Management Agency (FEMA), including negotiation of reimbursement scopes of work and estimated expenditure impacts, and documented actual expenses.
 - Planning, Development and Economic Analyses
- ✓ Managed the Miami-Dade County Main Landfill Re-Use Study
- Developed and implemented long range plans for the Department of Solid Waste Management, including interfaces with the county's Comprehensive Development Master Plan process and level-of-service standards
- Managed the 1995 Solid Waste Special Assessment District Study, including the development and implementation of a countywide survey of all solid waste generation in Miami-Dade County by land use type and 5-year financial projections to estimate potential assessment rates
- Managed the 1994 Dade County Solid Waste Transfer Station Efficiency Study that recommended cost effective alternatives to improve the efficiency of three regional solid waste transfer facilities.
- ✓ Developed and implemented an innovative facility permitting ordinance whereby proposed solid waste management facilities must be reviewed to ensure that these have no impacts on the department's financial viability nor the department's ability to comply with State and Federal regulations and contractual obligations.

1989 – 1991 Chief, Management and Budget Division Miami-Dade County, Department of Solid Waste Management

Managed the preparation and monitoring of the department's annual operating and capital budget in excess of \$200 million annually, ensuring coordination with the department's capital plans, and determining problems and associated recommendations for corrective action where necessary. Monitored the use of bond funds for capital projects. Conducted special studies in productivity improvements and cost benefit analysis to support the budget process and evaluate the impact of various policy alternatives. Implemented grants monitoring procedures for the department in association with the receipt of first time grants in excess of \$4 million per year; developed interlocal agreements with municipalities for grants funds, and prepared grant applications and expenditure reimbursement requests.

Managed the billing and collection functions for waste collection from approximately 260,000 residential and commercial customers, including the establishment of procedures and reports to ensure the timely and effective collection of receivables from customers. Determined required enhancements to the computerized billing system to resolve billing deficiencies.

Coordinated routing and scheduling of all garbage and bulky waste collection services.

Managed all procurement and contract activities for the Department including development of Departmental procedures to ensure compliance with County, State, and Federal procurement regulations and resolution of issues related to product quality, timeliness of deliveries, etc.

Representative Accomplishments:

- Managed the Variable Rates feasibility Study for Metropolitan Dade County, evaluating the impacts of a rate system that charged users for waste collection in proportion to the amount of waste generated.
- Managed the development of the Miami-Dade County Solid Waste Financial Capacity Modeling System (including revenue forecasting, capital replacement, debt service coverage, etc.)

- Negotiating team member and managed implementation of the county first-ever Curbside Recycling Contract, providing service to approximately 270,000 homes.
- Responsible for the selection and implementation of an automated garbage routing system for the Department of Solid Waste Management.

1988 – 1989 Manager, Transportation Planning and Metromover Development Miami-Dade Transit Agency

Spearheaded the Department's efforts in completing the planning and development for the expansion of the County's Metromover (people-mover) system in downtown Miami, Florida, including consultant management, technical supervision of ridership forecasts, funding contract negotiations with Federal and State governments, coordination with public groups, project coordination with the Public Works Department and the County Attorney's office.

Managed all transit agency coordination with the county's Planning Department, including updates to the transportation component of the Comprehensive Development Master Plan and data requirements for long range transportation planning and forecasting. Managed all transit agency coordination with the county's Metropolitan Planning Organization (MPO), including direct responsibility for major updates to the county's long-range transportation plan; and project prioritization and compliance for the transit agency's component of the MPO's annual Unified Planning Work Program.

Representative Accomplishments:

- ✓ Project Manager for the Miami Metromover Development, including federal acceptance of the Final Environmental Impact Statement for Metropolitan Dade County and the Local Perspective Report for the Completion of the Miami Metromover
- Team member in the development of the transit financial capacity models (including revenue forecasting, capital replacement, debt service coverage, etc.) provided the transportation planning interface to the models by directly linking the County travel behavior models and ridership forecasts to the financial models projecting revenues and expenditures.
- Project Manager for the South Miami Parking Garage Expansion Environmental Assessment and supporting South Miami Metrorail Parking Garage Expansion Report

1984 – 1987 Principal Planner/Transit Research Supervisor Miami-Dade Transit Agency

Supervised all research activities for the Planning Division to collect performance information required to evaluate transit service and provide input for travel demand models and analyses. Managed development and implementation of surveys and developed computer programs to analyze survey data. Developed, calibrated and validated a transit fare-ridership elasticity models to determine the effects of fare changes on ridership and providing a basis for evaluating revenue impacts of proposed fare changes.

1980 – 1983 System Planner Schimpeler Corradino Associates, Coral Gables, Florida

Developed instruments, training manuals and procedures for travel behavior surveys, including home interviews, mail surveys, on-board bus surveys and telephone surveys. Reviewed and analyzed results using statistical techniques to determine origin-destination travel paths, trip generation data, and mode choice information to calibrate travel demand models. Supervised the data processing section, providing technical support for the development of a broad range of computer applications.

OTHER PROFESSIONAL EXPERIENCE

2001 - Present Officer The Bayshore Visions Group, Inc.

Serves as one of three officers managing the real estate investments of the corporation on a part-time basis.

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EDUCATION

Master of Arts in Geography, 1983 Summa Cum Laude University of Miami, Coral Gables, Florida Transportation and Urban Economics concentration

Bachelor of Arts in Geography, 1978 Magma Cum Laude University of Miami, Coral Gables, Florida Environmental concentration

Member of American Institute of Certified Planners, and member of American Planning Association

PUBLICATIONS AND AWARDS

National Association of Counties 2003 Achievement Award Winner, Miami Dade County Strategic Planning Initiative

"Strategic Planning for Municipal Enterprises" Government Finance Review, Volume 15, Number 2, April 1999.

Solid Waste Association of North America, 1998 Planning and Financial Management Excellence Award

National Association of Counties 1996 Award Winner, 1995 Strategic Plan for Metropolitan Dade County Solid Waste Management

"Miami Downtown People Mover Demand Analysis", Transportation Research Record 1167, 1989 (with M. Sung)

"Trip Generation by Cross-Classification: An Alternative Methodology", Presented at the Transportation Research Board Annual Meeting, January 1983, Transportation Research Record (with P. Stopher)

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution setting a Public Hearing on July 28, 2004, to hear public comment regarding (1) the conveyance of approximately 7,726 square feet of City-owned land contained in Lots 18, 29 and 30 of Block 51, to TRG-Alaska III, LLC, (2) the conveyance of approximately 450 square feet of the eastern tip of the City-owned land commonly known as the Federal Triangle, subject to Federal Government approval, to TRG-Alaska I, LTD., and (3) the vacation of approximately 4,653 square feet of the southern portion of the alley known as Ocean Court on Block 1, in Miami Beach, Florida, pursuant to the terms of the Settlement Agreement; further to consider waiver, by 5/7ths vote, of the competitive bidding and appraisal requirements; as required by Section 82-39 of the Miami Beach City Code; finding said waiver to be in the best interest of the City of Miami Beach.

Issue:

Should the Mayor and City Commission adopt the attached Resolution which authorizes and sets the public hearing to consider the conveyance of City-owned land and the Vacation of Alley, as contemplated in the Settlement Agreement?

Item Summary/Recommendation:

The Mayor and City Commission have heretofore approved a "Term Sheet," settling in concept litigation, by Resolution No.2004-25509, adopted on February 25, 2004. Pursuant to the Settlement Terms the conveyance of certain City-owned property is required.

Section 82-39 of the Miami Beach City Code, governing the sale (which includes conveyance) or lease of City-owned property, provides that the conveyance of any City-owned property, requires the following: a) a public bidding process; b) a Planning Department analysis; c) an independent appraisal to determine the value of the leasehold interest; and d) a public hearing to obtain citizen input.

Section 82-39 further provides for the waiver of the competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, upon a finding by the Mayor and City Commission that the public interest would be served by waiving such conditions. There is also requirement that there be a minimum fifteen (15) day advertised notice advising of the public hearing.

Pursuant to the City's requirements for Vacation of Alleys, Easements and City Rights of Way, the requirements of Section 82-39 of the Miami Beach City Code also apply in considering the vacation of the alley and finding said vacation to be in the best interest of the general public's welfare.

Advisory Board Recommendation:

Design Review Board - June 15, 2004 - Approval Planning Board – June 22, 2004 - Approval

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Christina M. Cuervo

Sign-Offs:

104

Department Director	Assistant City Manager	City Manager
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AGENDA ITEM ____

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez
City Manager

Subject:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING ON JULY 28, 2004, TO HEAR PUBLIC COMMENT REGARDING (1) THE CONVEYANCE OF APPROXIMATELY 7.726 SQUARE FEET OF CITY-OWNED LAND CONTAINED IN LOTS 18, 29 AND 30 OF BLOCK 51, LOCATED BETWEEN WASHINGTON AVENUE ON THE EAST, BISCAYNE COURT TO THE NORTH, ALTON ROAD TO THE WEST AND SOUTH POINTE DRIVE TO THE SOUTH, IN MIAMI BEACH, FLORIDA TO TRG-ALASKA III, LLC, (2) THE CONVEYANCE OF APPROXIMATELY 450 SQUARE FEET OF THE EASTERN TIP OF THE CITY-OWNED LAND COMMONLY KNOWN AS THE FEDERAL TRIANGLE, SUBJECT TO FEDERAL GOVERNMENT APPROVAL, LOCATED ADJACENT TO THE COOK INLET REGION PROPERTY ADJACENT TO SOUTH POINTE PARK IN MIAMI BEACH, FLORIDA, TO TRG-ALASKA I, LTD., AND (3) THE VACATION OF APPROXIMATELY 4,653 SQUARE FEET OF THE SOUTHERN PORTION OF THE ALLEY KNOWN AS OCEAN COURT ON BLOCK 1, LOCATED BETWEEN OCEAN DRIVE ON THE EAST, FIRST STREET TO THE NORTH, COLLINS AVENUE TO THE WEST AND SOUTH POINTE DRIVE TO THE SOUTH, IN MIAMI BEACH, FLORIDA, PURSUANT TO THE TERMS OF THE SETTLEMENT AGREEMENT; FURTHER TO CONSIDER WAIVER, BY 5/7THS VOTE, OF THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS: AS REQUIRED BY SECTION 82-39 OF THE MIAMI BEACH CITY CODE: FINDING SAID WAIVER TO BE IN THE BEST INTEREST OF THE CITY OF MIAMI BEACH.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

East Coastline Development, Ltd. ("East Coastline"), West Side Partners, Ltd. ("West Side"), among others (collectively "the Portofino Entities"), initiated litigation against the City of Miami Beach (the "City") and the Department of Community Affairs, in various actions respectively claiming damages and rights under the Bert J. Harris Private Property Rights Protection Act, other civil rights violations and other relief in Florida Circuit Court Case No. 98-13274 CA 01(30), and United States District Court Case No. 01-4921-CIV-Moreno, and

July 7, 2004 Commission Memorandum Portofino Conveyance of Land Page 2 of 3

Florida Division of Administrative Hearings Case No. 02-3283GM. Some of the properties at issue in the litigation have been conveyed to one or more companies that are part of The Related Group (the "Related Entities").

The Mayor and City Commission have heretofore approved a "Term Sheet," settling in concept the above litigation, by Resolution No.2004-25509, adopted on February 25, 2004. Pursuant to the Term Sheet, the Related Entities and Portofino Entities have participated in a collaborative process including neighborhood residents and representatives, and City staff and consultant Alex Cooper, to prepare a Concept Plan to implement the settlement terms.

On May 26, 2004, the City Commission referred the Concept Plan to the Design Review Board and Planning Board, for review and recommendation. The City Commission further authorized the Administration to execute owner affidavits for those applications filed pursuant to the Term Sheet that involve City-owned land. In today's agenda, the Concept Plan is attached as part of the Settlement Agreement and there are various amendments to the Land Development Regulations and the Comprehensive Plan, collectively, which are necessary to implement the terms of the Settlement Agreement.

The attached Resolution authorizes and sets the public hearing to consider the conveyance of City-owned land and the Vacation of Alley, as contemplated in the Settlement Agreement.

Section 82-39 of the Miami Beach City Code, governing the sale (which includes conveyance) or lease of City-owned property, provides that the conveyance of any City-owned property, requires the following:

- a public bidding process
- a Planning Department analysis
- an independent appraisal to determine the value of the leasehold interest
- a public hearing to obtain citizen input

Section 82-39 further provides for the waiver of the competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, upon a finding by the Mayor and City Commission that the public interest would be served by waiving such conditions.

There is also requirement that there be a minimum fifteen (15) day advertised notice advising of the public hearing. In order to enable the Mayor and City Commission to hold the public hearing in a timely manner, the Administration is recommending that the date for said public hearing be set at this time.

Pursuant to the City's requirements for Vacation of Alleys, Easements and City Rights of Way, the requirements of Section 82-39 of the Miami Beach City Code also apply in considering the vacation of the alley and finding said vacation to be in the best interest of the general public's welfare.

July 7, 2004 Commission Memorandum Portofino Conveyance of Land Page 3 of 3

Based on the foregoing, the Administration recommends that the Mayor and City Commission set the public hearing for July 28, 2004, to consider the proposed conveyance of City-owned land and vacation of alley, in accordance to the terms of the Settlement Agreement and proposed waiver of the competitive bidding and appraisal requirement; finding said waiver to be in the best interest of the City.

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A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING ON JULY 28, 2004, TO HEAR PUBLIC COMMENT **REGARDING (1) THE CONVEYANCE OF APPROXIMATELY 7,726** SQUARE FEET OF CITY-OWNED LAND CONTAINED IN LOTS 18, 29 AND 30 OF BLOCK 51, LOCATED BETWEEN WASHINGTON AVENUE ON THE EAST, BISCAYNE COURT TO THE NORTH. ALTON ROAD TO THE WEST AND SOUTH POINTE DRIVE TO THE SOUTH, IN MIAMI BEACH, FLORIDA TO TRG-ALASKA III, LLC, (2) THE CONVEYANCE OF APPROXIMATELY 450 SQUARE FEET OF THE EASTERN TIP OF THE CITY-OWNED LAND COMMONLY KNOWN AS THE FEDERAL TRIANGLE. SUBJECT TO FEDERAL GOVERNMENT APPROVAL, LOCATED ADJACENT TO THE COOK INLET REGION PROPERTY ADJACENT TO SOUTH POINTE PARK IN MIAMI BEACH, FLORIDA, TO TRG-ALASKA I, LTD., AND (3) THE VACATION OF APPROXIMATELY 4,653 SQUARE FEET OF THE SOUTHERN PORTION OF THE ALLEY KNOWN AS OCEAN COURT ON BLOCK 1, LOCATED BETWEEN OCEAN DRIVE ON THE EAST, FIRST STREET TO THE NORTH, COLLINS AVENUE TO THE WEST AND SOUTH POINTE DRIVE TO THE SOUTH, IN MIAMI BEACH, FLORIDA, PURSUANT TO THE TERMS OF THE SETTLEMENT AGREEMENT: FURTHER TO CONSIDER WAIVER, BY 5/7THS VOTE, OF THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENTS: AS REQUIRED BY SECTION 82-39 OF THE MIAMI BEACH CITY CODE: FINDING SAID WAIVER TO BE IN THE BEST INTEREST OF THE CITY OF MIAMI BEACH.

WHEREAS, East Coastline Development, Ltd. ("East Coastline"), West Side Partners, Ltd. ("West Side"), among others (collectively "the Portofino Entities"), initiated litigation against the City of Miami Beach (the "City") and the Department of Community Affairs, in various actions respectively claiming damages and rights under the Bert J. Harris Private Property Rights Protection Act, other civil rights violations and other relief in Florida Circuit Court Case No. 98-13274 CA 01(30), and United States District Court Case No. 01-4921-CIV-Moreno, and Florida Division of Administrative Hearings Case No. 02-3283GM; and

WHEREAS, some of the properties at issue in the litigation have been conveyed to one or more companies that are part of The Related Group (the "Related Entities"); and

WHEREAS, the Mayor and City Commission have heretofore approved a "Term Sheet," settling in concept the above litigation, by Resolution No.2004-25509, adopted on February 25, 2004. Pursuant to the Term Sheet, the Related Entities and Portofino Entities have participated in a collaborative process including neighborhood residents and representatives, and City staff and consultant Alex Cooper, to prepare a Concept Plan to implement the settlement terms; and

WHEREAS, on May 26, 2004, the City Commission referred the Concept Plan to the Design Review Board and Planning Board, for review and recommendation; and

WHEREAS, the City Commission further authorized the Administration to execute owner affidavits for those applications filed pursuant to the Term Sheet that involve Cityowned land; and

WHEREAS, as part of today's agenda, the Concept Plan is being considered along with the Settlement Agreement and there are various amendments to the Land Development Regulations and the Comprehensive Plan, collectively, which are necessary to implement the terms of the Settlement Agreement; and

WHEREAS, this Resolution authorizes and sets the public hearing to consider the conveyance of City-owned land and the Vacation of Alley, as contemplated in the Settlement Agreement; and

WHEREAS, Section 82-39 of the Miami Beach City Code, governing the sale (which includes conveyance) or lease of City-owned property, provides that the conveyance of any City-owned property, requires the following:

- a public bidding process;
- · a Planning Department analysis;
- an independent appraisal to determine the value of the leasehold interest:
- a public hearing to obtain citizen input; and

WHEREAS, Section 82-39 further provides for the waiver of the competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, upon a finding by the Mayor and City Commission that the public interest would be served by waiving such conditions; and

WHEREAS, there is also requirement that there be a minimum fifteen (15) day advertised notice advising of the public hearing. In order to enable the Mayor and City Commission to hold the public hearing in a timely manner, the Administration is recommending that the date for said public hearing be set at this time; and

WHEREAS, pursuant to the City's requirements for Vacation of Alleys, Easements and City Rights of Way, the requirements of Section 82-39 of the Miami Beach City Code also apply in considering the vacation of the alley and finding said vacation to be in the best interest of the general public's welfare; and

WHEREAS, based on the foregoing, the Administration recommends that the Mayor and City Commission set the public hearing for July 28, 2004, to consider the proposed conveyance of City-owned land and vacation of alley, in accordance with the terms of the Settlement Agreement and proposed waiver of the competitive bidding and appraisal requirement; finding said waiver to be in the best interest of the City.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission, set a public hearing on July 28, 2004, to hear public comment regarding (1) the conveyance of approximately 7,726 square feet of city-owned land contained in lots 18, 29 and 30 of block 51, located between Washington Avenue on the east, Biscayne Court

to the north, Alton Road to the west and South Pointe Drive to the south, in Miami Beach, Florida to TRG-Alaska III, LLC, (2) the conveyance of approximately 400 square feet of the eastern tip of the city-owned land commonly known as the Federal Triangle, subject to federal government approval, located adjacent to the Cook Inlet Region property adjacent to South Pointe Park in Miami Beach, Florida, to TRG-Alaska I, LTD., and (3) the vacation of approximately 4,653 square feet of the southern portion of the alley known as Ocean Court on Block 1, located between Ocean Drive on the east, First Street to the north, Collins Avenue to the west and South Pointe Drive to the south, in Miami Beach, Florida, pursuant to the terms of the Settlement Agreement; further to consider waiver, by 5/7ths vote, of the competitive bidding and appraisal requirements; as required by Section 82-39 of the Miami Beach City Code; finding said waiver to be in the best interest of the City of Miami Beach.

PASSED AND ADOPTED this	day of	, 2004
	_	
ATTEST:		MAYOR
CITY CLERK		
APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION		
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JMG\CMC\rar

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution authorizing the Mayor and City Clerk to execute a Lease Agreement between the City and Omni Credit Services of Southeast Florida, Inc. for use of Suite 200 (886 Square Feet) of City-owned property, located at 1701 Meridian Avenue (a/k/a 777 - 17th Street) for a 364 day term, retroactively commencing on July 1, 2004, and ending on June 29, 2005.

Issue:

N/A

Sign-Offs:

Department Director

Shall the Mayor and City Commission approve the Lease Agreement with Omni Credit Services of Southeast Florida, Inc?

Item Summary/Recommendation:

Advisory Board Recommendation:

In January 2002, when the City acquired the property located at 1701 Meridian Avenue, also known as 777-17th Street, EDAW, Inc. was then occupying, Suite #200, pursuant to the provisions of an existing Lease Agreement that was set to expire on June 30, 2004. In October 2003, EDAW, with the approval of the City, subleased Suite #200 to Omni Credit Services of Southeast Florida, Inc. (Omni) which has continued to sublet same since that time. EDAW had the option to extend their Lease term for a 2 year period but opted not to do so. In light of the expiration of EDAW's Lease, Omni approached the City requesting to continue to occupy Suite #200, for a term not to exceed one (1) year. The City Administration and Omni have agreed to a full rate of \$27.18 per square foot, which is at or above the current market rate, and is in keeping with the rates (as increased by 3%) that EDAW would be paying the City, if they had exercised their option. Since the proposed term is for less than one (1) year, the provisions of City Code Section 82-39 (a/k/a Shapiro Ordinance) do not apply.

Administration recommends adoption of the Resolution.

Financial Information:				
Amount to be ex	pended:	None		
Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dent	Total			

Assistant City Manager

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AGENDA ITEM <u>C7H</u>

DATE1<u>17-7-04</u>

City Manager

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF

MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND OMNI CREDIT SERVICES OF SOUTHEAST FLORIDA, INC. FOR USE OF SUITE 200, COMPRISING APPROXIMATELY 886 SQUARE FEET OF CITY-OWNED PROPERTY, LOCATED AT 1701 MERIDIAN AVENUE (A/K/A 777 - 17TH STREET) MIAMI BEACH, FLORIDA, FOR A THREE HUNDRED SIXTY-FOUR (364) DAY TERM, RETROACTIVELY COMMENCING ON JULY 1, 2004, AND ENDING ON

JUNE 29, 2005.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

In January of 2002, when the City of Miami Beach acquired the property located at 1701 Meridian Avenue, also known as 777-17th Street (the "Property"), EDAW was then occupying approximately 886 square feet of office space, more particularly, Suite #200 (the "Demised Premises"), pursuant to the provisions of an existing Lease Agreement that was set to expire on June 30, 2004. In October 2003, EDAW, with the approval of the City, subleased the Demised Premises to Omni Credit Services of Southeast Florida, Inc. (Omni) which has continued to sublet same since that time. EDAW had an option to renew its Lease Agreement for an additional two (2) year term, but has opted not to exercise said option. Omni has approached the City requesting to continue to occupy the Demised Premises, for a term not to exceed one (1) year, to allow for the completion of permanent future office space on private property.

The City and Omni have negotiated a short-term Lease Agreement subject to the following terms and conditions:

Demised Premises: Suite 200, 1701 Meridian Avenue (a/k/a 777-17th Street), Miami Beach.

Florida 33139, encompassing 886 +/- square feet on the second floor

Term: 364 days, commencing on July 1, 2004, and ending on June 29, 2005

Option to Renew: None

<u>Use:</u> Administrative office to facilitate collections and customer service related

operations, Monday-Friday 8:00 AM, to no later than 9:00 PM

Early Termination: Provided that the Lease Agreement is in good standing, Tenant may, after

the conclusion of the initial six (6) month period, terminate this Lease

Agreement upon sixty (60) days prior written notice.

Total Rent: \$2,006.79 per month, \$24,081.48 yearly, \$27.18 per square foot (PSF)

• Base Rent: \$1,295.63 per month (\$15,547.56 yearly)

Additional Rent¹:

Operating Expenses: \$582.27 per month (\$6,987.24 yearly)

o Property Taxes: \$77.13 per month (\$925.56 yearly)

o Landlord's Insurance²: \$51.76 per month (\$621.12 yearly)

Sales/Use Tax: Tenant shall also be responsible for all applicable sales and use tax

Parking: Tenant may request, from the City's Parking Department, the use of parking

spaces, if available, at Municipal Parking Garage 2-G located on 17th Street and Meridian Court. Rates for said spaces are subject to change, and are currently \$60.00 per month, plus applicable sales and use tax per space.

Security Deposit: \$2,147.27

The Mayor and City Commission authorized the purchase of the Property to address the City's ongoing need for administrative office expansion on a graduated basis. While the Administration has begun implementing the aforestated objective, it also considers that the preservation of this short term office tenancy, at this time, will allow the City to maintain its revenue stream from the Property until such time the subject space is required for City office expansion. Additionally, as part of the City's good faith effort to accommodate existing tenants (and sub-tenants), this will not displace Omni and their ongoing space needs and this lease is deemed to be in the City's best interest. The proposed rent will be based on the rates provided for in the previously existing Lease Agreement with EDAW (as if EDAW had exercised its option to renew), and said rates are considered to be at, or above, the current market rates for comparable office space.

EDAW's full rate (less sales tax) was \$26.67 PSF, and was due to increase (by 3%) to \$27.18 PSF on July 1, 2004. Current market rate for comparable office space is approximately \$23 to \$25 PSF (full service). Omni has agreed to the \$27.18 PSF rate.

Section 82-39 of the Miami Beach City Code, governing the sale/lease of public property, is not applicable to this transaction as the term of the proposed Lease Agreement is for less than a one (1) year term.

Based on the foregoing, the Administration recommends that the Mayor and City Commission adopt the Resolution and approve the attached Lease Agreement with Omni Credit Services of Southeast Florida, Inc.

JMG\CMC\JD\rlr

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¹ All Additional Rent is subject to year-end review and will be adjusted accordingly based on actual expenditures

² Tenant additionally is required to obtain its own liability and content insurance

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND OMNI CREDIT SERVICES OF SOUTHEAST FLORIDA, INC. FOR USE OF SUITE 200, COMPRISING APPROXIMATELY 886 SQUARE FEET OF CITY-OWNED PROPERTY, LOCATED AT 1701 MERIDIAN AVENUE (A/K/A 777 - 17TH STREET) MIAMI BEACH, FLORIDA, FOR A THREE HUNDRED SIXTY-FOUR (364)DAY TERM. RETROACTIVELY COMMENCING ON JULY 1, 2004, AND **ENDING ON JUNE 29, 2005**

WHEREAS, in January 2002, the Mayor and City Commission authorized the purchase of the property located at 1701 Meridian Avenue (a/k/a 777-17th Street), Miami Beach, Florida (the Property); and

WHEREAS, at the time the City acquired the Property, EDAW, Inc. was occupying Suite 200 (the Demised Premises), encompassing approximately 886 square feet of the Property, pursuant to the provisions of an existing Lease Agreement that was set to expire on June 30, 2004; and

WHEREAS, in October 2003, EDAW, with the City's approval, subleased the Demised Premises to Omni Credit Services of Southeast Florida, Inc (Omni), which has continued to sublet same since that time; and

WHEREAS, in light of the pending June 30, 2004 termination date of EDAW's Lease Agreement, Omni approached the City requesting to continue to occupy the Demised Premises, for a term not to exceed one (1) year; and

WHEREAS, the City Administration and Omni have negotiated a three hundred sixty-four (364) day lease, for Omni's continued occupation of the Demised Premises, for administrative offices to conduct customer service and collection related operations; and

WHEREAS, the City does not have any immediate plans for the use of the Demised Premises, nor foresees the need for the use of same over the following one year period; and

WHEREAS, the preservation of this short term office tenancy will allow the City to maintain its current revenue stream and continue to pay down debt service on the Property; and

WHEREAS, Section 82-39 of the Miami Beach City Code, governing the sale/lease of public property, does not apply since the term of the proposed lease is for a period of less than one (1) year.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk be authorized to execute a Lease Agreement between the City of Miami Beach and Omni Credit Services of Southeast Florida, Inc. for use of Suite 200, comprising approximately 886 square feet of City-owned property located at 777 17th Street, Miami Beach, Florida, for a three hundred sixty-four (364) day term, retroactively commencing on July 1, 2004, and ending on June 29, 2005.

PASSED and ADOPTED this _7th day of _July , 2004.

ATTEST:	
CITY CLERK	MAYOR
JMG\CMC\JD\rlr	

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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

LEASE AGREEMENT

THIS LEASE AGREEMENT, made this _____ day of ______, 2004, by and between the CITY OF MIAMI BEACH, a Florida municipal corporation, (hereinafter referred to as "City" or "Landlord"), and OMNI CREDIT SERVICES OF SOUTHEAST FLORIDA, INC., a Florida corporation, (hereinafter referred to as "Tenant").

1. Demised Premises.

Landlord, in consideration of the rentals hereinafter reserved to be paid and of the covenants, conditions and agreements to be kept and performed by the Tenant, hereby leases, lets and demises to the Tenant, and Tenant hereby leases and hires from the Landlord, those certain premises hereinafter referred to as the "Demised Premises", located in the City of Miami Beach, 1701 Meridian Avenue (a.k.a 777-17th Street or the Property), Suite 200, Miami Beach, Florida 33139, and more fully described as follows:

1701 Meridian Avenue, Suite #200: encompassing eight hundred eighty-six (+/-) square feet (886+/- sq. ft.) on the second floor (total leasable space). Such space on the second floor is specified in "Exhibit A", which is hereby made a part of this Lease Agreement.

2. <u>Term</u>.

- 2.1. The Tenant shall be entitled to have and to hold the Demised Premises for a term of three hundred and sixty four (364) days, commencing on the 1st day of July 2004 (Commencement Date), and ending on the 29th day of June, 2005.
- 2.2. Option to Renew: None
- 2.3. Termination for Convenience by Tenant: Provided Tenant is in good standing under this Lease Agreement and Tenant is not in default of any of the terms and conditions hereof, including but not limited to Tenant's obligation for payment of all Rent, pursuant to Section 3 of this Lease Agreement, Tenant shall be entitled, at any time after the conclusion of the initial six (6) month period of this Lease Agreement, to terminate this Lease Agreement upon sixty (60) days prior written notice to the Landlord. Upon termination of the Lease Agreement pursuant to this Subsection 2.3, Tenant shall surrender the Demised Premises in accordance with Section 34 of this Lease Agreement.

3. Rent.

3.1 Base Rent: Base Rent for the Demised Premises shall begin to accrue on July 1, 2004 (the Commencement Date), and shall be based upon a total leasable space of 886 square feet.

- 3.1.1 Base Rent for the Demised Premises shall total fifteen thousand five hundred forty-seven dollars and fifty-six cents (\$15,547.56) per year, payable in monthly installments of one thousand two hundred ninety-five dollars and sixty-three cents (\$1,295.63).
- 3.1.2 Base Rent shall be due and payable on the first day of each month throughout the term herein.
- 3.2 Additional Rent: In addition to the monthly Base Rent, as set forth in Section 3.1, Tenant shall also pay to Landlord Additional Rent as provided below:
 - 3.2.1 <u>Operating Expenses</u>: Tenant shall pay Landlord five hundred eighty-two dollars and twenty-seven cents (\$582.27) per month, towards "Operating Expenses" which are defined as follows:

"Operating Expenses" shall mean the total cost and expenses incurred by Landlord in operating, repairing, and maintaining the Common Facilities (hereinafter defined) actually used, or the Common Facilities (hereinafter defined) available for use by the Tenant and its employees, agents, servants, customers and invitees, excluding only the items included within the Base Rent amount.

"Common Facilities" shall mean all areas, space, equipment and special services, including without limitation, water service to the building, sewer service to the building, trash removal from the building, costs incurred for gardening and landscaping, repairing and maintaining elevator(s), painting, janitorial services (except for areas within the Demised Premises), lighting, cleaning, striping, policing, removing garbage and other refuse and trash, removing ice and snow, repairing and maintaining sprinkler systems, water pipes, air-conditioning systems, temperature control systems, and security systems, fire alarm repair and maintenance and other equipment in the common areas and the exterior and structural portions of the building, paving and repairing, patching and maintaining the parking areas and walkways, and cleaning adjacent areas, management fees and the Landlord's employment expenses to employees furnishing and rendering any services to the common areas, together with an additional administration charge equal to fifteen percent (15%) of all other expenses included in the annual common area expenses, provided by the Landlord for the common or joint use and/or benefit of the occupants of 777-17th Street, their employees, agents, servants, customers and other invitees.

Irrespective of the items listed above, amounts due to Landlord by Tenant, associated with Common Facilities Operating Expenses,

will be determined based on the items more specifically described in "Exhibit B", which is hereby made a part of this Lease Agreement. Tenant agrees and understands that the costs incurred by the Landlord for Operating Expenses may increase or decrease, and as such the Tenant's pro-rata share of Operating Expenses shall increase or decrease accordingly.

- 3.2.2 **Property Taxes:** The Property Tax Payment shall be payable by Tenant, in accordance with Section 11. The Property Tax Payment for 2004 is estimated at seventy-seven dollars and thirteen cents (\$77.13).
- 3.2.3 Insurance: Tenant shall pay to Landlord fifty-one dollars and seventy-six cents (\$51.76) per month, toward estimated insurance costs incurred by Landlord (Landlord's Insurance) to insure the whole of the building and property at 1701 Meridian Avenue. The preceding insurance coverage is in addition to the insurance required pursuant to Section 10, which shall be obtained at Tenant's sole cost and expense. A copy of Landlord's certificate of insurance will be provided to Tenant.
- 3.3 The Base Rent amount pursuant to this Section 3 shall be increased annually, on the anniversary of the Commencement Date of the Lease Agreement, in increments of three (3%) percent per year.
- 3.4 <u>Sales Tax</u>: Concurrent with the payment of the monthly installment of Base Rent and Additional Rent provided herein, the Tenant shall also include any and all additional sums for all applicable sales and use tax, now or hereafter prescribed by State, Federal or local law, and now described by Florida Statute 212.031, presently at the rate of seven (7%) percent of the rental payments.

4. Location for Payments.

All Rent or other payments due hereunder shall be paid to the City of Miami Beach at the following address:

City of Miami Beach Finance Department c/o Revenue Manager 1700 Convention Center Drive Miami Beach, Florida 33139

5. Parking.

- 5.1 Intentionally Omitted.
- 5.2 Tenant may request, from the City's Parking Department, the use of parking spaces, if available, at Municipal Parking Garage 2-G located on 17th Street

and Meridian Court. Rates for said spaces are subject to change, and are currently \$60.00 per month, plus applicable sales and use tax per space.

6. Security Deposit.

- 6.1 Concurrently with the execution of the Lease Agreement, Tenant shall provide Landlord with a Security Deposit, in the sum of two thousand one hundred forty-seven dollars and twenty-seven cents (\$2,147.27). Said Security Deposit is to ensure the full and faithful performance by the Tenant of each and every term, covenant and condition of this Lease Agreement. In the event that Tenant defaults in respect of any of the terms, provisions, covenants and conditions of this Lease Agreement, including but not limited to, the payment of any Rent, the Landlord may use, apply or retain the whole or any part of the Security Deposit for the payment of such Rent in default or any other sum which the Landlord may expend or be required to expend by reason of the Tenant's default, including any damages or deficiency in the reletting of the Demised Premises, whether such damages or deficiency may accrue or after summary proceedings or other re-entry by Landlord.
- In the event that the Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease Agreement, the Security Deposit or any balance thereof shall be returned to the Tenant, without interest, upon the expiration of the Lease Agreement and peaceful surrender of the Demised Premises.
- 6.3 Landlord shall not be required to keep the Security Deposit in a segregated account and the Security Deposit may be commingled with other funds of Landlord and in no event shall the Tenant be entitled to any interest on the Security Deposit.
- In the event of a bona fide sale of the Property wherein the Demised Premises are located, subject to this Lease Agreement, the Landlord shall have the right to transfer the Security Deposit to the buyer for the benefit of the Tenant and the Landlord shall be considered by the Tenant free from all liability for the return of such Security Deposit, and the Tenant agrees to look to the new landlord solely for the return of the Security Deposit, if such Security Deposit is actually transferred, and it is agreed that this shall apply to every transfer or assignment made of the Security Deposit to any new landlord.
- 6.5 The Security Deposit under this Lease Agreement shall not be assigned or encumbered by the Tenant without the prior written consent of the Landlord. It is expressly understood that the issuance of a warrant and the lawful reentry to the Demised Premises by the Landlord for any default on the part of the Tenant, prior to the expiration of the term of this Lease Agreement, shall not be deemed such termination of this Lease Agreement as to entitle the Tenant to recovery of the Security Deposit and the Security Deposit shall be retained and remain the possession of the Landlord.

7. Use and Possession of Demised Premises.

- 7.1 The Demised Premises shall be used by the Tenant solely as an administrative office to facilitate collections and customer service related operations. Said Premises shall be open for operation a minimum of five (5) days a week, with normal hours of operation being from Monday through Friday 8:00 A.M. to 9:00 P.M. Tenant shall not otherwise modify the days or hours of operation without the prior written approval of the City Manager, which approval shall not be unreasonably withheld. Nothing herein contained shall be construed to authorize hours contrary to the laws governing such operations.
- 7.2 It is understood and agreed that the Demised Premises shall be used by the Tenant during the term of this Lease Agreement only for the purposes set forth in Subsection 7.1, and for no other purposes or uses whatsoever. Tenant will not make or permit any use of the Demised Premises that, directly or indirectly, is forbidden by public law, ordinance or government regulation, or that may be dangerous to life, limb or property. Tenant may not commit waste on the Demised Premises, use the Demised Premises for any illegal purpose, or commit a nuisance on the Demised Premises. In the event that the Tenant uses the Demised Premises for any purposes not expressly permitted herein, then the Landlord may declare this Lease Agreement in default pursuant to Section 18, or without notice to Tenant, restrain such improper use by injunction or other legal action.

8. Improvements.

- 8.1 Tenant shall, at its own cost and expense, construct or cause to be constructed, all improvements to the Demised Premises reasonably necessary for it to carry on its permitted use(s). The plans for such improvements shall be submitted to the Landlord for the Landlord's prior written consent, which will not be unreasonably withheld or delayed. All permanent (fixed) improvements to the Demised Premises shall remain the property of the Landlord upon termination of the Lease Agreement. Upon the lawful termination of the Lease Agreement, all personal property and trade fixtures may be removed by the Tenant from the Demised Premises without damage to the Demised Premises. The failure of Tenant to complete the improvements and be granted a Certificate of Occupancy within a reasonable time from the date of execution of this Lease Agreement shall be deemed a default by Tenant. Tenant will permit no liens to attach to the Demised Premises arising from, connected with or related to the construction of the improvements. Moreover, such construction shall be accomplished through the use of licensed, reputable contractors who are acceptable to Landlord. Any and all permits and or licenses required for the installation of improvements shall be the sole responsibility of Tenant.
- 8.2 The above requirements for submission of plans and the use of specific contractors shall not apply to maintenance or repairs which do not exceed

\$1,000.00, provided that the work is not structural, and provided that it is permitted by applicable law.

8.3 Intentionally Omitted.

9. Landlord's Right of Entry.

- 9.1 The Landlord, or its authorized agent or agents, shall have the right to enter upon the Demised Premises at all reasonable times for the purpose of inspecting same, preventing waste, making such repairs as the Landlord may consider necessary and for the purpose of preventing fire, theft or vandalism. However, Landlord agrees that whenever possible, Landlord shall provide reasonable notice, in writing, to Tenant, unless the need to enter the Demised Premises is an emergency, as deemed by Landlord at its sole discretion, which if not immediately addressed could cause property damage, loss of life or limb, or other injury to persons. Nothing herein shall imply any duty on the part of the Landlord to do any work that under any provisions of this Lease Agreement the Tenant may be required to perform, and the performance thereof by the Landlord shall not constitute a waiver of the Tenant's default.
- 9.2 If the Tenant shall not be personally present to open and permit entry into the Demised Premises at any time, for any reason, and any entry thereon shall be necessary or permissible, the Landlord, or its agents, may enter the Demised Premises by master key, or may forcibly enter the Demised Premises without rendering the Landlord or such agents liable therefore.
- 9.3 Tenant shall furnish Landlord duplicate keys to all locks including exterior and interior doors upon the effective date of this Lease Agreement. Tenant shall not change the locks to the Demised Premises without the prior written consent of Landlord, not to be unreasonably withheld, and in the event such consent is given Tenant shall furnish Landlord duplicate keys to said locks in advance of their installation.

10. Tenant's Insurance.

- 10.1 The Tenant shall, at its sole cost and expense, comply with all insurance requirements of the Landlord. It is agreed by the parties that the Tenant shall not occupy the Demised Premises until proof of the following insurance coverages have been furnished to and approved by the City's Risk Manager:
 - 10.1.1 Comprehensive General Liability in the minimum amount of \$1,000,000 per occurrence for bodily injury and property damage. The City of Miami Beach and the Miami Beach Redevelopment Agency must be named as additional insured parties on this policy.

- 10.1.2 Workers Compensation and Employers Liability coverage in accordance with Florida statutory requirements.
- All-Risk property and casualty insurance, written at a minimum of 80% of replacement cost value and with replacement cost endorsement, covering all of Tenant's personal property in the Demised Premises (including, without limitation, inventory, trade fixtures, floor coverings, furniture and other property removable by Tenant under the provisions of the Lease Agreement) and all leasehold improvements installed in the Demised Premises by or on behalf of Tenant.
- 10.2 Proof of these coverages must be provided by submitting original certificates of insurance. All policies must provide thirty (30) days written notice of cancellation to both the City's Risk Manager and Asset Manager at 1700 Convention Center Drive, Miami Beach, Florida, 33139. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and must have a rating of B+:VI or better per A.M. Best's Key Rating Guide, latest edition, and certificates are subject to the approval of the City's Risk Manager.
- 11. <u>Property Taxes and Assessments</u>. For the purposes of this Section and other provisions of this Lease Agreement:
 - 11.1 The term "Property Taxes" shall mean (i) the real estate taxes, assessments, and special assessments of any kind which may be imposed upon the tax lot on which the building is constructed (the "Land") and (ii) any expenses incurred by Landlord in obtaining a reduction of any such taxes or assessments.
 - 11.2 The term "Property Tax Year" shall mean the period of twelve (12) calendar months, beginning on January 1st of each year.
 - 11.3 The term "Tenant's Proportionate Share" shall mean the ratio that the square footage of the Demised Premises bears to the square footage of the leasable space in the entire building.
 - 11.4 Tenant shall pay, as Additional Rent pursuant to Section 3.2.2, for such Property Tax Year an amount ("Property Tax Payment") equal to Tenant's Proportionate Share of the Property Taxes, if any, for such Property Tax Year. If a Property Tax Year ends after the expiration or termination of the term of this Lease Agreement, the Property Tax Payment therefore shall be prorated to correspond to that portion of such Property Tax Year occurring within the term of this Lease Agreement. The Property Tax Payment shall be payable by Tenant along with the rent on the first day of each month in accordance with the provisions of Section 3.3.2. The monthly Property Tax Payment shall be equivalent to 1/12th of the estimated yearly taxes, based on the previous year's actual taxes. A copy of the tax bill(s) or other evidence of

such taxes issued by the taxing authorities, together with Landlord's computation of the Property Tax Payment, will be made available to Tenant once received from the taxing authorities, if requested by Tenant. Tenant shall pay any difference in the amount between the estimated property taxes and the actual property taxes to Landlord immediately upon receipt of request for said payment from the Landlord.

12. Assignment and Subletting.

- 12.1. Tenant shall not have the right to assign or sublet the Demised Premises, in whole or in part, without the prior written consent of Landlord. Such written consent is not a matter of right and Landlord is not obligated to give such consent. If granted as provided herein, the making of any assignment or sublease will not release Tenant from any of its obligations under this Lease Agreement. A sale or transfer of a majority interest of the stock of Tenant's corporate entity shall be deemed an assignment, and for purposes of this Lease Agreement, the Landlord shall have the right to approve the new majority owner. Said approval shall be provided in writing. A change in majority interest shall not be deemed to occur if ownership interests change among any of the Tenant's current shareholders. However, any such change in majority interest shall be communicated to the Landlord in writing immediately upon said occurrence. Tenant is prohibited from assigning or subletting this Lease Agreement to any person or entity which is not of the same or higher financial responsibility as Tenant, as shall be determined by Landlord, in its sole judgment and discretion.
- 12.2 Any consent by the Landlord to any act of assignment shall apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Tenant or the legal representatives or assigns of the Tenant, to obtain from the Landlord consent to any other or subsequent assignment, or as modifying or limiting the rights of the Landlord under the foregoing covenants of the Tenant not to assign without such consent.
- 12.3 Any violation of the provisions of this Lease Agreement, whether by act or omissions, by assignee, sub-tenant, or under-tenant or occupant, shall be deemed a violation of such provision by the Tenant, it being the intention and meaning of the parties hereto, that the Tenant shall assume and be liable to the Landlord for any and all acts and omissions of any and all assignees, sub-tenants, or under-tenants or occupants. If the Lease Agreement be assigned, the Landlord may and is hereby empowered to collect rent from the assignee; if the Demised Premises or any part thereof be underlet or occupied by any person, other that the Tenant, the Landlord, in the event of the Tenant's default, may, and is hereby empowered to, collect rent from the under-tenant or occupants; in either of such events, the Landlord may apply the net amount received by it for rent herein reserved, and no such collection shall be deemed a waiver of the covenant herein against assignment or the acceptance of the assignee, under-tenant or occupant as tenant, or a

release of the Tenant from the further performance of the covenants herein contained on the part of the Tenant.

13. Maintenance and Repair.

13.1 Tenant shall maintain the Demised Premises and the fixtures and appurtenances therein, and at its sole cost and expense shall make all repairs thereto as and when needed to preserve them in good working order and condition. Landlord shall be responsible for the maintenance of the roof, the exterior of the building, the structural electrical and plumbing (other than plumbing surrounding any sink within the Demised Premises), the common areas and the chilled water supply system. Landlord shall maintain and/or repair those items that it is responsible for, so as to keep same in proper working condition. Tenant shall also be responsible for all interior walls and the interior and exterior of all windows and doors, as well as immediate replacement of any and all plate glass or other glass in the Demised Premises which may become broken using glass of the same or better quality, at its sole cost and expense.

Tenant agrees and understands, that If Landlord provides a separate airconditioning unit for the Demised Premises, Landlord, at its sole discretion. Landlord may require that Tenant obtain, at any time during the Term of this Lease Agreement, and continuously maintain in good standing, at Tenant's expense, throughout the Term of the Lease Agreement, a maintenance and repair contract, approved by Landlord, with a service company previously approved in writing by Landlord, providing for the preventative maintenance and repair of all heating/ventilation/air-conditioning (HVAC) equipment servicing the Demised Premises. In the event that Landlord notifies Tenant that it will require Tenant to contract for said maintenance and repair services, Tenant shall provide to Landlord, in writing, within ten (10) business days, the name(s) and telephone number(s) of service company(ies) for the Landlord's review and approval. Tenant shall provide a copy of a current, enforceable and fully executed maintenance and repair contract, no later than ten (10) business days after receipt of Landlord's approval of the service company, as proof of Tenant's compliance with this provision.

If Landlord provides a separate air-conditioning unit for the Demised Premises, as provided above, Tenant may request that Landlord inspect same to ensure that it is in proper working order. If the unit is not in proper working order, Landlord shall, at its sole discretion, repair or replace the unit.

13.2 All damage or injury of any kind to the Demised Premises and to its fixtures, glass, appurtenances, and equipment, if any, or to the building fixtures, glass, appurtenances, and equipment, if any, except damage caused by the wrongful acts or negligence of the Landlord, shall be the obligation of Tenant, and shall be repaired, restored or replaced promptly by Tenant at its sole cost and expense to the satisfaction of Landlord.

- 13.3 All of the aforesaid repairs, restorations and replacements shall be in quality and class equal to the original work or installations and shall be done in good and workmanlike manner.
- 13.4 If Tenant fails to make such repairs or restorations or replacements, the same may be made by the Landlord, at the expense of Tenant, and all sums spent and expenses incurred by Landlord shall be collectable as Additional Rent and shall be paid by Tenant within ten (10) days after rendition of a bill or statement thereof. IN ALL OTHER RESPECTS, THE DEMISED PREMISES ARE BEING LEASED IN ITS PRESENT "AS IS" CONDITION.
- 13.5 It shall be Tenant's obligation to insure that any renovations, repairs and/or improvements made by Tenant to the Demised Premises comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.

14. Governmental Regulations.

The Tenant covenants and agrees to fulfill and comply with all statutes, ordinances, rules, orders, regulations, and requirements of any and all governmental bodies, including but not limited to Federal, State, Miami-Dade County, and City governments, and any and all of their departments and bureaus applicable to the Demised Premises and shall also comply with and fulfill all rules, orders, and regulations for the prevention of fire, all at Tenant's own cost and expense. The Tenant shall pay all cost, expenses, claims, fines, penalties, and damages that may be imposed because of the failure of the Tenant to comply with this Section, and shall indemnify and hold harmless the Landlord from all liability arising from each non-compliance.

15. Liens.

Tenant will not permit any mechanics, laborers, or materialman's liens to stand against the leased premises or improvements for any labor or materials to Tenant or claimed to have been furnished to Tenant's agents, contractors, or sub-tenants, in connection with work of any character performed or claimed to have performed on said premises, or improvements by or at the direction or sufferance of the Tenant, provided however, Tenant shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Tenant shall give the Landlord reasonable security as may be demanded by Landlord to insure payment thereof and prevent sale, foreclosure, or forfeiture of the premises or improvements by reasons of such non-payment. Such security need not exceed one and one half (1-1/2) times the amount of such lien or such claim of lien. Such security shall be posted by Tenant within ten (10) days of written notice from Landlord, or Tenant may "bond off" the lien according to statutory procedures. Tenant will immediately pay any judgment rendered with all proper cost and charges and shall have such lien released or judgment satisfied at Tenant's own expense.

16. Enforcement.

Tenant agrees to pay the Base Rent and any Additional Rent herein reserved at the time and in the manner aforesaid, and should said rents herein provided, at any

time remain due and unpaid for a period of fifteen (15) days after the same shall become due, the Landlord may exercise any or all options available to it hereunder, which options may be exercised concurrently or separately or the Landlord may pursue any other remedies enforced by law.

17. Condemnation.

- 17.1 If at any time during the term of this Lease Agreement and any renewal term hereunder, all or any part or portion of the building in which the Demised Premises are located, sufficient in size, to cause the Demised Premises to be untenantable, is taken, appropriated, or condemned by reason of Eminent Domain proceedings (except if the Eminent Domain proceedings are initiated by the City of Miami Beach), then this Lease Agreement shall be terminated as of the date of such taking, and shall thereafter be completely null and void, and neither of the parties hereto shall thereafter have any rights against the other by reason of this Lease Agreement or anything contained therein, except that any rent prepaid beyond the date of such taking shall be prorated to such date, and the Tenant shall pay any and all rents, additional rents, utility charges, or other costs including excess taxes for which it is liable under the terms of this Lease Agreement, up to the date of such taking.
- 17.2 Except as hereunder provided, Tenant shall not be entitled to participate in the proceeds of any award made to the Landlord in any such Eminent Domain proceeding, excepting, however, the Tenant shall have the right to claim and recover from the condemning authority, but not from the Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reasons of the condemnation and for or on account of any cost or loss which Tenant might incur in removing Tenant's furniture and fixtures.

18. Default.

- 18.1 <u>Default by Tenant</u>: The following shall constitute an Event of Default under this Lease Agreement:
 - 18.1.1 The Base Rent, Additional Rent, or any installment thereof is not paid promptly when and where due within fifteen (15) days of due date and if Tenant shall not cure such failure within five (5) days after receipt of written notice from Landlord specifying such default;
 - 18.1.2 Any other payment of Rent or other charges provided for under this Lease Agreement is not paid promptly when and where due;
 - 18.1.3 The Demised Premises shall be deserted, abandoned, or vacated;
 - 18.1.4 The Tenant shall fail to comply with any material term, provision, condition or covenant contained herein other than the payment of

rent and shall not cure such failure within thirty (30) days after the receipt of written notice from Landlord specifying any such default; or such longer period of time acceptable to Landlord, at its sole discretion;

- 18.1.5 Receipt of notice of violation from any governmental authority having jurisdiction dealing with a code, regulation, ordinance or the like, which remains uncured for a period of thirty (30) days from its issuance, or such longer period of time acceptable to Landlord, at its sole discretion;
- 18.1.6 Any petition is filed by or against Tenant under any section or chapter of the Bankruptcy Act, as amended, which remains pending for more than sixty (60) days, or any other proceedings now or hereafter authorized by the laws of the United States or of any state for the purpose of discharging or extending the time for payment of debts;
- 18.1.7 Tenant shall become insolvent;
- 18.1.8 Tenant shall make an assignment for benefit of creditors;
- 18.1.9 A receiver is appointed for Tenant by any court and shall not be dissolved within thirty (30) days thereafter; or
- 18.1.10 The leasehold interest is levied on under execution.
- 19. Landlord's Rights in the Event of Default.
 - 19.1 Rights on Default: In the event of any default by Tenant as provided herein, Landlord shall have the option to do any of the following in addition to and not in limitation of any other remedy permitted by law or by this Lease Agreement;
 - 19.1.1 Terminate this Lease Agreement, in which event Tenant shall immediately surrender the Demised Premises to Landlord, but if Tenant shall fail to do so Landlord may, without further notice, and without prejudice to any other remedy Landlord may have for possession or arrearages in Rent or damages for breach of contract, enter upon Demised Premises and expel or remove Tenant and his effects in accordance with law, without being liable for prosecution or any claim for damages therefore, and Tenant agrees to indemnify and hold harmless Landlord for all loss and damage which Landlord may suffer by reasons of such Lease Agreement termination, whether through inability to re-let the Demised Premises, or through decrease in Rent, or otherwise.

- 19.1.2 Declare the entire amount of the Base Rent and Additional Rent which would become due and payable during the remainder of the term of this Lease Agreement to be due and payable immediately, in which event Tenant agrees to pay the same at once, together with all rents therefore due, at the address of Landlord, as provided in the Notices section of this Lease Agreement; provided, however, that such payment shall not constitute a penalty, forfeiture, or liquidated damage, but shall merely constitute payment in advance of the Rent for the remainder of said term and such payment shall be considered, construed and taken to be a debt provable in bankruptcy or receivership.
- 19.1.3 Enter the Demised Premises as the agent of Tenant, by force if necessary, without being liable to prosecution or any claim for damages therefore, remove Tenant's property there from, and relet the Demised Premises, or portions thereof, for such terms and upon such conditions which Landlord deems, in its sole discretion, desirable, and to receive the rents therefore, and Tenant shall pay Landlord any deficiency that may arise by reason of such reletting, on demand at any time and from time to time at the office of Landlord; and for the purpose of re-letting, Landlord may (i) make any repairs, changes, alterations or additions in or to said Demised Premises that may be necessary or convenient; (ii) pay all costs and expenses therefore from Rent resulting from reletting; and (iii) Tenant shall pay Landlord any deficiency as aforesaid.
- 19.1.4 Take possession of any personal property owned by Tenant on said Demised Premises and sell the same at public or private sale, and apply same to the payment of Rent due, holding the Tenant liable for the deficiency, if any.
- 19.1.5 It is expressly agreed and understood by and between the parties hereto that any installments of Rent accruing under the provisions of this Lease Agreement which shall not be paid when due shall bear interest at the maximum legal rate of interest per annum then prevailing in Florida from the date when the same was payable by the terms hereof, until the same shall be paid by Tenant. Any failure on Landlord's behalf to enforce this Section shall not constitute a waiver of this provision with respect to future accruals of past due rent. No interest will be charged for payments made within the grace period, such grace period to be defined as within five days of the due date. In addition, there will be a late charge of \$50.00 for any payments submitted after the grace period.
- 19.1.6 If Tenant shall default in making any payment of monies to any person or for any purpose as may be required hereunder, Landlord may pay such expense but Landlord shall not be

obligated to do so. Tenant upon Landlord's paying such expense shall be obligated to forthwith reimburse Landlord for the amount thereof. All sums of money payable by Tenant to Landlord hereunder shall be deemed as rent for use of the Demised Premises and collectable by Landlord from Tenant as Rent, and shall be due from Tenant to Landlord on the first day of the month following the payment of the expense by Landlord.

- 19.1.7 The rights of the Landlord under this Lease Agreement shall be cumulative but not restrictive to those given by law and failure on the part of the Landlord to exercise promptly any rights given hereunder shall not operate to waive or to forfeit any of the said rights.
- 19.2 <u>Default by Landlord:</u> The failure of Landlord to perform any of the covenants, conditions and agreements of the Lease Agreement which are to be performed by Landlord and the continuance of such failure for a period of thirty (30) days after notice thereof in writing from Tenant to Landlord (which notice shall specify the respects in which Tenant contends that Landlord failed to perform any such covenant, conditions and agreements) shall constitute a default by Landlord, unless such default is one which cannot be cured within thirty (30) days because of circumstances beyond Landlord's control, and Landlord within such thirty (30) day period shall have commenced and thereafter shall continue diligently to prosecute all actions necessary to cure such defaults.

In the event Landlord fails to cure any such default(s) within the thirty (30) day cure period, or within the extended cure period, as provided above, and such failure to perform prevents Tenant from operating its business in a customary manner and causes an undue hardship for the Tenant, then such failure to perform shall constitute a default by Landlord.

19.3 <u>Tenant's Rights on Default:</u> If an event of Landlord's default shall occur, pursuant to Subsection 19.2, Tenant's sole remedy shall be to terminate this Lease Agreement by giving written notice of such election to Landlord, whereupon this Lease Agreement shall terminate as of the date of such notice.

20. <u>Indemnity Against Costs and Charges</u>.

20.1 The Tenant shall be liable to the Landlord for all costs and charges, expenses, reasonable attorney's fees, and damages which may be incurred or sustained by the Landlord, by reason of the Tenant's breach of any of the provisions of this Lease Agreement. Any sums due the Landlord under the provisions of this item shall constitute a lien against the interest of the Tenant and the Demised Premises and all of Tenant's property situated thereon to the same extent and on the same conditions as delinquent Rent would constitute a lien on said Premises and the Property.

20.2 If Tenant shall at any time be in default hereunder, and if Landlord shall deem it necessary to engage an attorney to enforce Landlord's rights and Tenant's obligations hereunder, the Tenant will reimburse the Landlord for the reasonable expenses incurred thereby, including, but not limited to, court costs and reasonable attorney's fees, whether suit be brought or not and if suit be brought, then Tenant shall be liable for expenses incurred at both the trial and appellate levels.

21. Indemnification Against Claims.

- 21.1 The Tenant shall indemnify and save the Landlord harmless from and against any and all claims or causes of action (whether groundless or otherwise) by or on behalf of any person, firm, or corporation, for personal injury or property damage occurring upon the Demised Premises or upon any parking lot or other facility or appurtenance on the Property used in connection with the Demised Premises, occasioned in whole or in part by any of the following:
 - 21.1.1 An act or omission on the part of the Tenants, or any employee, agent, invitee, or guest, assignee or sub-tenant of the Tenant;
 - Any misuse, neglect, or unlawful use of the Demised Premises or the building in which the Demised Premises is located or any of its facilities by Tenant, or any employee, agent, invitee, or guest, assignee or sub-tenant or the Tenant, but not to include trespassers upon the Demised Premises;
 - 21.1.3 Any breach, violation, or non-performance of any undertaking of the Tenant under this Lease Agreement;
 - 21.1.4 Anything growing out of the use or occupancy of the Demised Premises by the Tenant or anyone holding or claiming to hold through or under the Lease Agreement.
- 21.2 Tenant agrees to pay all damages to the Demised Premises or other facilities used in connection therewith, caused by the Tenant or any employee, guest, or invitee of the Tenant.

22. Signs and Advertising.

Without the prior written consent of Landlord, Tenant shall not permit the painting and display of any signs, plaques, lettering or advertising material of any kind on or near the Demised Premises. All signage shall comply with signage standards established by Landlord and comply with all applicable building codes, and any other Municipal, County, State and Federal laws.

23. <u>Effect of Conveyance</u>.

The term "Landlord" as used in the Lease Agreement means only the owner for the time being of the Property containing the Demised Premises, so that in the event of

any sale of said Property, or in the event of a lease of said Property, the Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of the Landlord hereunder, and it shall be deemed and construed without further agreement between the parties, or between the parties and the purchaser at such sale, or the lease of the Property, that the purchaser or Tenant has assumed and agreed to carry out all covenants and obligations of the Landlord hereunder.

24. <u>Damage to the Demised Premises</u>.

- The Property in which the Demised Premises are located is insured under 24.1 Landlord's fire insurance policy. If the Demised Premises shall be damaged by the elements or other casualty not due to Tenant's negligence, or by fire, but are not thereby rendered untenantable, as determined by Landlord, in whole or in part, and such damage is covered by Landlord's insurance, if any, (hereinafter referred to as "such occurrence"), Landlord, shall, as soon as possible after such occurrence, utilize the insurance proceeds to cause such damage to be repaired and the rent shall not be abated. If by reason of such occurrence, the Demised Premises shall be rendered untenantable, as determined by Landlord, only in part, Landlord shall as soon as possible utilize the insurance proceeds to cause the damage to be repaired, and the rent meanwhile shall be abated proportionately as to the portion of the Demised Premises rendered untenantable; provided however, if the Demised Premises are by reason of such occurrence, rendered more than 50% but less than 100% untenantable, as determined by Landlord, Landlord shall promptly obtain a good faith estimate of the time required to render the Demised Premises tenantable. If such time exceeds sixty (60) days, the Tenant shall have the option of canceling this Lease Agreement, which option shall be exercised by Tenant in writing within ten (10) days of receipt of notice of same from Landlord.
- 24.2 If the Demised Premises shall be rendered wholly untenantable by reason of such occurrence, the Landlord shall utilize the insurance proceeds to cause such damage to be repaired and the Base Rent and Additional Rent meanwhile shall be abated in whole; provided, however, that Landlord shall have the right, to be exercised by notice in writing delivered to Tenant within sixty (60) days from and after said occurrence, to elect not to reconstruct the destroyed Demised Premises, and in such event, this Lease Agreement and the tenancy hereby created shall cease as of the date of said occurrence. the Base Rent and Additional Rent to be adjusted as of such date. If the Demised Premises shall be rendered wholly untenantable, the Tenant shall have the right, to be exercised by notice in writing, delivered to Landlord within thirty (30) days from and after said occurrence, to elect to terminate this Lease Agreement, the rent to be adjusted accordingly. Notwithstanding any clause contained in this Section, if Landlord becomes self insured or the damage is not covered by Landlord's insurance, then Landlord shall have no obligation to repair the damage, but Landlord shall advise Tenant in writing within thirty (30) days of the occurrence giving rise to the damage and of its decision not to repair, and the Tenant may, at any time thereafter, elect to

terminate the Lease Agreement, and the Base Rent and Additional Rent shall be adjusted accordingly.

25. Quiet Enjoyment.

The Tenant shall enjoy quiet enjoyment of the Demised Premises and shall not be evicted or disturbed in possession of the Demised Premises so long as Tenant complies with the terms of this Lease Agreement.

26. Waiver.

- 26.1 It is mutually covenanted and agreed by and between the parties hereto that the failure of Landlord to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Lease Agreement, or to exercise any option herein conferred, will not be considered or construed as a waiver or relinquishment for the future of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect.
- A waiver of any term expressed herein shall not be implied by any neglect of Landlord to declare a forfeiture on account of the violation of such term if such violation by continued or repeated subsequently and any express waiver shall not affect any term other than the one specified in such waiver and that one only for the time and in the manner specifically stated.
- 26.3 The receipt of any sum paid by Tenant to Landlord after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver of such breach, but shall be taken, considered and construed as payment for use and occupation, and not as Rent, unless such breach be expressly waived in writing by Landlord.

27. Notices.

The addresses for all notices required under this Lease Agreement shall be as follows, or at such other address as either party shall in writing, notify the other:

LANDLORD: City Manager

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139

With copy to: City Attorney

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139

And copy to: Asset Manager

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139

TENANT: Omni Credit Services of Southeast Florida, Inc.

1701 Meridian Avenue, Suite 200 Miami Beach, Florida 33139

With copy to: Greg Straub, Esquire

333 Bishops Way, Suite 100

Brookfield WI, 53005

All notices shall be hand delivered and a receipt requested, or by certified mail with return receipt requested, and shall be effective upon receipt.

28. Entire and Binding Agreement.

This Lease Agreement contains all of the agreements between the parties hereto, and it may not be modified in any manner other than by agreement in writing signed by all the parties hereto or their successors in interest. The terms, covenants and conditions contained herein shall inure to the benefit of and be binding upon Landlord and Tenant and their respective successors and assigns, except as may be otherwise expressly provided in this Lease Agreement.

29. Provisions Severable.

If any term or provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease Agreement shall be valid and be enforced to the fullest extent permitted by law.

30. Captions.

The captions contained herein are for the convenience and reference only and shall not be deemed a part of this Lease Agreement or construed as in any manner limiting or amplifying the terms and provisions of this Lease Agreement to which they relate.

Number and Gender.

Whenever used herein, the singular number shall include the plural and the plural shall include the singular, and the use of one gender shall include all genders

32. Governing Law.

This Lease Agreement shall be governed by and construed in accordance with the law of the State of Florida.

33. Limitation of Liability.

The Landlord desires to enter into this Agreement only if in so doing the Landlord can place a limit on Landlord's liability for any cause of action for money damages due to an alleged breach by the Landlord of this Agreement, so that its liability for

any such breach never exceeds the sum of Ten Thousand Dollars and no/100 (\$10,000.00). Tenant hereby expresses its willingness to enter into this Agreement with the Tenant's recovery from the Landlord for any damage action for breach of contract to be limited to a maximum amount of Ten Thousand (10,000.00) Dollars. Accordingly, and notwithstanding any other term or condition of this Agreement, Tenant hereby agrees that the Landlord shall not be liable to Tenant for damage in an amount in excess of Ten Thousand (\$10,000.00) Dollars for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the Landlord by this Agreement. Nothing contained in this Section or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon Landlord's liability as set forth in Florida Statutes, Section 768.28.

34. Surrender of the Demised Premises.

The Tenant shall, on or before the last day of the term herein demised, or the sooner termination thereof, peaceably and quietly leave, surrender and yield upon to the Landlord the Demised Premises, together with any and all equipment, fixtures, furnishings, appliances or other personal property, if any, located at or on the Demised Premises and used by Tenant in the maintenance, management or operation of the Demised Premises, excluding any trade fixtures or personal property, if any, which can be removed without material injury to the Demised Premises, free of all liens, claims and encumbrances and rights of others or broomclean, together with all structural changes, alterations, additions, and improvements which may have been made upon the Demised Premises, in good order, condition and repair, reasonable wear and tear excepted, subject, however, to the subsequent provisions of this Article. Any property which pursuant to the provisions of this Section is removable by Tenant on or at the Demised Premises upon the termination of this Lease Agreement and is not so removed may, at the option of the Landlord, be deemed abandoned by the Tenant, and either may be retained by the Landlord as its property or may be removed and disposed of at the sole cost of the Tenant in such manner as the Landlord may see fit. If the Demised Premises and personal property, if any, be not surrendered at the end of the term as provided in this Section, the Tenant shall make good the Landlord all damages which the Landlord shall suffer by reason thereof, and shall indemnify and hold harmless the Landlord against all claims made by any succeeding tenant or purchaser, so far as such delay is occasioned by the failure of the Tenant to surrender the Demised Premises as and when herein required.

35. <u>Time is of the Essence</u>.

Time is of the essence in every particular and particularly where the obligation to pay money is involved.

36. Venue.

This Lease Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

LANDLORD AND TENANT HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT THE LANDLORD AND TENANT MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS LEASE AGREEMENT.

signed by the respective duly aut	the parties hereto have caused these presents to be chorized officers, and the respective corporate seals to be
ATTEST:	LANDLORD: CITY OF MIAMI BEACH, FLORIDA
CITY CLERK	BY: MAYOR
ATTEST:	TENANT: OMNI CREDIT SERVICES OF SOUTHEAST FLORIDA, INC.
SECRETARY NOTING TUBLIC ROBERT F STRITE EXP-6-1-08 NOTONY CORPORATE SEAL (affix here)	BERNARD KLEMANN, MANAGING PARTNER

F:\DDHP\\$ALL\ASSET\777-17th Street\EDAW\OMNI LeaseFinal.DOC

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

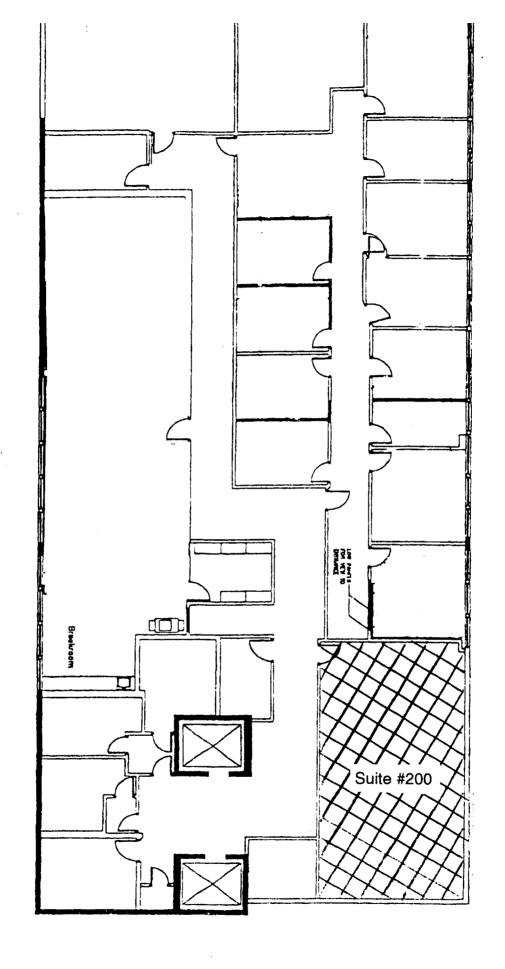


Exhibit A

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A resolution accepting the recommendation of the Neighborhood/Community Affairs Committee, approving placement of a memorial plaque in Collins Park honoring former Mayor Mel Richard and referring the item to the Art in Public Places Committee to determine a suitable location.

Issue:

Shall the City Commission accept the Neighborhood/Community AffairsCommittee's recommendation and refer the item to Art in Public Places Committee?

Item Summary/Recommendation:

On September 25, 2001, the Community Affairs Committee recommended that Administration work with Dennis Richard to develop a design and determine a suitable location for a memorial plaque, honoring his father, the late Mel Richard, a former Mayor of the City of Miami Beach. On May 14, 2004, Dennis Richard submitted a proposal, calling for the plaque to be located on a small raised pedestal between the Rotunda and Collins Avenue. The plan was subsequently approved by Design Review staff and submitted to the Neighborhoods/Community Affairs Committee at its meeting on June 15, 2004, for its approval and recommendation to the City Commission. Upon approval by the City Commission, the proposal must then be referred to the Art in Public Places Committee to advise on a suitable location.

The Administration recommends approving the resolution.

Advisory Board Recommendation:

On June 15, 2004, subsequent to the approval of Design Review staff, the proposal was presented to the Neighborhood/Community Affairs Committee for its review and recommendation. The Committee approved the design and recommended that Dennis Richard proceed with commissioning the project pending approval of the full City Commission.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
	Total			

City Clerk's Office Legislative Tracking:

Kent Bonde – Redevelopment Coordinator Ext #6363

Sign-Offs:

Redevelopment Coordinator	Assistant City Manager	City Manager
КВ	CMC CHC	JMG Jmg

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AGENDA ITEM <u>C7Z</u>

DATE <u>7-7-04</u>

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139

www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF

MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO APPROVE THE PLACEMENT OF A COMMEMORATIVE PLAQUE IN COLLINS PARK, HONORING FORMER MAYOR MEL RICHARD, AND REFERRING THE ITEM TO THE ART IN PUBLIC PLACES COMMITTEE, TO DETERMINE A

SUITABLE LOCATION.

ADMINISTRATION RECOMMENDATION

The Administration recommends accepting the recommendation and referring this item to the Art in Public Places Committee.

BACKGROUND

At the Community Affairs Committee meeting held on September 25, 2001, there was a discussion concerning honoring the late Mayor Mel Richard. His son, Dennis Richard requested to have a street named after his father. Due to the fact that the renaming of streets and public facilities requires a lengthy approval process which includes a public referendum, the Committee recommended instead to place a commemorative plague in a suitable location. It should be noted that in 1999, in response to a directive by the Mayor and City Commission, the Community Affairs Committee, together with input from the Art in Public Places Committee, developed specific guidelines and policies (a copy of which is attached), to review the placement of plaques on a case-by-case basis. Diane Camber, Director of the Bass Museum, informed the Committee that a commemorative plague would be placed in the Bass Museum, but that one should be placed in an exterior public place. The Committee discussed various options for the location of the proposed plaque, including the plaza in the Collins Park Cultural Center, the courtyard of the Bass Museum and the stretch of Park Avenue in front of the Bass Museum. The Committee recommended to have Dennis Richard meet with representatives from the City's Administration and Robert A.M. Stern Architects to determine a location. The Committee's recommendations were subsequently approved by the City Commission at its meeting on November 18, 2001.

Since then, Dennis Richard contacted Commissioner Bower and submitted proposed wording for a plaque, entitled "The Melvin J. Richard Rotunda" leading staff to believe that

a misunderstanding existed as to the process involved in approving the location and content of the plaque. Staff has since reviewed the minutes of the September 25, 2001 Community Affairs Committee meeting to determine if in fact any mention was made of naming the Rotunda after Mel Richard, or whether the Rotunda was identified as one of the locations to place the plaque, which then may have been misinterpreted as renaming the facility. The only mention of the Rotunda was a question as to what the round structure was in the Robert A.M. Stern Master Plan. The reply was that it was the stand-alone Rotunda. It was not discussed as a possible location for the plaque.

ANALYSIS

In order to proceed, plans for the proposed design and wording of the plaque needed to be reviewed and approved by Design Review staff. To this end, the Administration has been in contact with Dennis Richard to assist in the submittal of the plans. On May 14, 2004, Dennis Richard submitted a revised proposal, calling for the plaque to be located on a small raised pedestal/platform between the Rotunda and Collins Avenue. The design, by architect, Bill Taylor (a member of the Historic Preservation Board), is drawn to preserve a historical reference to the columns on the nearby Miami Beach library building which will soon be demolished. Since the architect proposes to use actual slab from the old library, he is requesting that when the structure is demolished, that some of the slab be salvaged for the subject memorial plaque.

On June 15, 2004, subsequent to the approval of Design Review staff, the proposal was presented to the Neighborhood/Community Affairs Committee for its review and recommendation. The Committee approved the design and recommended that Dennis Richard proceed with commissioning the project pending approval of the full City Commission.

In accordance with established guidelines, upon acceptance of the Neighborhood/ Community Affairs Committee's recommendations by the City Commission, the proposal must then be referred to the Art in Public Places (AIPP) Committee to advise on an appropriate location for the plaque.

JMG/CMC/KOB

T:\AGENDA\2004\JULY 7 2004\Consent\Mel Richard Memorial.doc

Attachments

RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA ACCEPTING THE RECOMMENDATION OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE TO APPROVE THE PLACEMENT OF A COMMEMORATIVE PLAQUE IN COLLINS PARK, HONORING FORMER MAYOR MEL RICHARD, AND REFERRING THE ITEM TO THE ART IN PUBLIC PLACES COMMITTEE, TO DETERMINE A SUITABLE LOCATION.

WHEREAS, on April 12, 2001, the Mayor and City Commission adopted Resolution 2000-23847, adopting a Citywide policy for the placement of plaques on public property; and

WHEREAS, in response to a directive by the Mayor and City Commission, the Neighborhoods/Community Affairs Committee, together with input from the Art in Public Places Committee, developed specific guidelines and policies to review the placement of memorial plaques on a case-by-case basis; and

WHEREAS, at the Neighborhoods/Community Affairs Committee meeting held on September 25, 2001, there was a discussion concerning honoring the late Mayor Mel Richard with a memorial plaque; and

WHEREAS, the Committee recommended that Dennis Richard, his son, meet with representatives from the Administration and Robert A.M. Stern Architects, the architect of the new Collins Park Regional Library, to develop a design for the plaque and determine a suitable location; and

WHEREAS, on May 14, 2004, Dennis Richard submitted a proposal, calling for the plaque to be located on a small raised pedestal between the Rotunda and Collins Avenue; and

WHEREAS, at its regular meeting on June 15, 2004, the Neighborhoods/Community Affairs Committee the proposal and recommended its approval to the City Commission; and

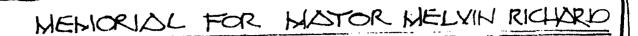
WHEREAS, in accordance with the City's policy for placement of plaques, upon approval of a proposal by the City Commission, the proposal shall be referred to the Art in Public Places Committee for a recommendation on a location for the approved plaque.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the Neighborhoods/ Community Affairs Committee to approve the placement of a commemorative plaque in Collins Park, honoring former Mayor Mel Richard, and refer the item to the Art in Public Places Committee, to determine a suitable location.

PASSED and ADOPTED this	day of	, 2004.
ATTEST:		
CITY CLERK	MAY	/OR

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

M Muhlim 6-24-04
Date



COST BROWZE MEMORLIOL COP H/SILOUETTE/PROFILE & DEDICATION

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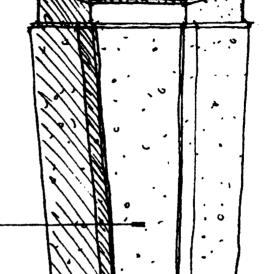
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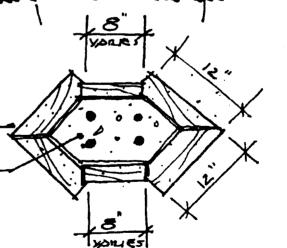
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H.C. TAYLOR PREHITECT

[Face Relief]

MELVIN J. RICHARD

McIvin J. Richard came to Miami Beach in 1926 at the age of 14. His first labor for the young City was digging ditches, at 35 cents an hour, to pipe fresh water to its citizens. In 1934, at age 22, he became the 6th attorney in the City. In 1941, at age 29, he became City Judge. On June 7, 1949, he was elected to the City Council, a post he would hold for 16 years. On June 4, 1963 he was elected Mayor of Miami Beach.

He was known for his uncompromising honesty, and yielded to the control of no man or woman, except his wife, Janet. He successfully fought to keep the beaches open to the public, to keep organized crime out of the City, to keep Lincoln Road a pedestrian thoroughfare, and for many noble causes.

He died on February 12, 2001, at age 89, still practicing law, and still appearing before the City Commission for causes in which he believed. In all of these years he left the City and his family only once, from 1943 to 1946 to serve the Nation, and the City, as a decorated naval officer in the European Theater of World War II.

This building was designed and built under his watch as Mayor and Councilman, between 1962 and 1964, and dedicated to Melvin J. Richard on _____, 2004, by a grateful City.

II:MJR\Estatebutunda engraving.wpd

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 http://cl.mlemi-beech.fl.ue



DATE: April 12, 2000

COMMISSION MEMORANDUM NO. 258-00

TO:

Mayor Neisen O. Kasdin and

Members of the City Commission

FROM:

Lawrence A. Levy

City Manager

SUBJECT:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF MIAMI BEACH, FLORIDA, APPROVING AND ADOPTING A POLICY FOR THE DESIGN AND PLACEMENT OF PLAQUES ON PUBLIC PROPERTY IN THE CITY OF MIAMI BEACH, AS ESTABLISHED BY THE COMMUNITY

AFFAIRS COMMITTEE

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

In March of 1998, the City Commission repealed policies allowing for the co-naming or sub-naming of streets and public facilities pursuant to the recommendation of the Neighborhoods Committee. At the meeting of June 9, 1999, the City Commission discussed using plaques as an alternative way to recognize outstanding individuals because excessive use of the current policy of renaming streets was determined to be confusing to residents and tourists.

The Community Affairs Committee (Committee) was created by Resolution No. 98-22693 on March 18, 1998, and is designated to review and make recommendations on naming requests of this nature. The Committee met on July 1, 1999 to discuss and formulate guidelines for plaques. The proposed guidelines were further amended to include general design standards, from the City's Planning Department. The amended guidelines were approved by the Community Affairs Committee in September and a report of the meeting was presented at the City Commission of October 6, 1999.

The Administration then met with the Art in Public Places Committee (AIPP) in February 2000 to present the new guidelines and request input from the AIPP. The AIPP's recommendation were incorporated in the guidelines (attached), including language to state that, upon approval by the City Commission, AIPP would identify suitable locations for the placement of plaques on a case-by-case basis.

The following guidelines, attached as Exhibit A, are presented for the approval of the Mayor and City Commission.

DATE 4-12-00

F: CMCREALL VIDY COMBENTERS AQUES, WPD

EXHIBIT A

Plaques in Recognition of Outstanding Individuals Guidelines and General Design Standards

1. Plaques - Location and General Design Standards

a) Size and Material Standards:

- Plaques shall be of bronze construction with raised, ribbon, or engraved letters, with a smooth round or square corner edge;
- Size of plaques shall be 10" by 14" vertically mounted except that special circumstances may be considered for plaques of either a smaller size or larger size subject to staff Design Review and approval.

b) Location of Plaques:

- All plaques and proposed plaque locations shall be subject to Design Review and approval at staff level. Applicants shall meet with staff prior to commencement of identifying location.

c) Plaques Located on Buildings:

- Any plaques on a building or structure should be located in a place and manner that does not disrupt the architectural design or significance of the building/structure subject to staff review and approval.
- Plaques shall be located approximately just above eye level with the horizontal center line at approximately 68" above sidewalk.
- Plaques may only be permitted to be located on buildings and structures if an appropriate location is determined by Design Review staff.

d) Plaques Located in the Public Right-of-Way:

Any plaques located in a public right-of-way shall be located, mounted, installed and lighted (if appropriate) in a manner which does not impede pedestrian or vehicular traffic as well as in a location which does not adversely impact upon or alter the special character of the right-of-way or its surrounding environs, including buildings, structures, landscaping, etc.

e) Letter Font and Size:

All letter font and sizes shall be easily legible from a distance of 30" and shall be subject to Design Review staff review and approval.

f) Proposed Plaque Copy:

- All proposed plaque copy (text) shall be subject to review and approval by the Community Affairs Committee.

EXHIBIT A (Continued)

- 2. Plaques Review and Placement Process
- a) Request for Placement of a Plaque shall be made by the Mayor and/or a City Commissioner.
- b) Request shall be referred to the Community Affairs Committee for review and recommendation. Community Affairs Committee shall review proposal and any recommendations from Design Review staff regarding the proposal.
- c) Community Affairs Committee shall submit written recommendation to the full City Commission for review and approval of the request.
- d) After approval by the City Commission, the proposal will be brought before the Art in Public Places Committee for a recommendation on a location for the plaque.
- 3. Plaques Sizes and Shapes
- a) Size of plaques shall be 10" by 14" vertically mounted except that special circumstances may be considered for plaques of either a smaller size or larger size subject to staff Design Review and approval.
- 4. Plaques Funding
- a) All plaques shall be funded by the sponsor of the proposal.

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RESOLUTION NO. 2000-23847

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF MIAMI BEACH, FLORIDA, APPROVING AND ADOPTING A POLICY FOR THE DESIGN AND PLACEMENT OF PLAQUES ON PUBLIC PROPERTY IN THE CITY OF MIAMI BEACH, AS ESTABLISHED BY THE COMMUNITY AFFAIRS COMMITTEE.

WHEREAS, in March of 1998, the Mayor and City Commission repealed policies allowing for the co-naming or sub-naming of streets and public facilities, pursuant to the recommendation of the Neighborhoods Committee; and

WHEREAS, at the meeting of June 9, 1999, the Mayor and City Commission discussed using historic markers as a way to recognize outstanding individuals; and

WHEREAS, excessive use of the current policy of renaming streets was determined to be confusing to residents and tourists; and

WHEREAS, the Community Affairs Committee (Committee) was created by Resolution No. 98-22693 on March 18, 1998, and is designated to review and make recommendations on requests of this nature; and

WHEREAS, the Committee has been meeting to discuss and formulate guidelines for plaques and, on September 29, 1999, approved the attached policy regarding the placement of plaques on public property.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission herein accept the guidelines established by the Community Affairs Committee, attached hereto as Exhibit "A", regarding the placement of plaques on public property.

PASSED and ADOPTED this _	12th day of A	pril 2000.
ATTEST:		
12, , , , , ,		Ш
LOVERD Parelle	APPROVED AS TO	MAYOR

FORM & LANGUAGE & FOR EXECUTION

LAL:JMH:jah Attachment

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution Authorizing The City Manager To Apply For And Accept/Support The Following Four (4) Grant Applications.

Issue:

Shall the City Apply For And Accept/Support The Following Grants?

Item Summary/Recommendation:

The Administration Requests Approval To Authorize The City Manager Or His Designee To Submit Grant Applications For The Following Funds: 1) The State Of Florida, Cultural Facilities Grant Program For Funding In An Amount Not To Exceed \$500,000 For Renovations To The Byron Carlyle Theater; 2) The State Of Florida, Cultural Facilities Grant Program For Funding In An Amount Not To Exceed \$500,000 For The Rotunda; 3) The Visitor And Convention Authority For Funding In An Amount Not To Exceed \$20,000 For The Bass Museum's Paris Moderne Exhibit; And 4) The Baseball Tomorrow Fund For Funds In An Amount Not To Exceed \$60,000 For The City's Baseball Program; While Leveraging Previously Appropriated City Funds As Needed; Further Appropriating The Grants If Approved And Accepted By The City And Authorizing The Execution Of All Necessary Documents Related To These Applications.

Financial Information:

Source of Matching	Grant Name/Project	Grant Amount	Match Amount/Source
Funds:	1-Cultural Facilities Grant Program/Byron Carlyle	\$500,000	Quality of Life Funds/Miami Beach Community Development Corporation Funds/Miami - Dade County Cultural Affairs Grant/North Beach Development Corporation Funding/CMB Fund 301
2/	2-Cultural Facilities Grant Program/Rotunda	\$500,000	City Center RDA Funds
p	3- Visitor and Convention Authority/Bass–Paris Moderne	\$20,000	N/A - No Match Required
Finance Dept.	4-Baseball Tomorrow Fund	\$60,000	N/A - No Match Required

City Clerk's Office Legislative Tracking:

Judy Hoanshelt, Grants Manager

Sign-Offs:

Department Director	Assistant City Manager	City Manager
Ah. X.		June
37 //		

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT GRANT APPLICATIONS TO THE FOLLOWING FUNDING AGENCIES: 1) THE STATE OF FLORIDA, CULTURAL FACILITIES GRANT PROGRAM FOR FUNDING IN AN AMOUNT NOT TO EXCEED \$500,000 FOR RENOVATIONS TO THE BYRON CARLYLE THEATER; 2) THE STATE OF FLORIDA, CULTURAL FACILITIES GRANT PROGRAM FOR FUNDING IN AN AMOUNT NOT TO EXCEED \$500,000 FOR THE ROTUNDA; 3) THE VISITOR AND CONVENTION AUTHORITY FOR FUNDING IN AN AMOUNT NOT TO EXCEED \$20,000 FOR THE BASS MUSEUM'S PARIS MODERNE **EXHIBIT: AND 4) THE BASEBALL TOMORROW FUND FOR FUNDS IN** AN AMOUNT NOT TO EXCEED \$60,000 FOR THE CITY'S BASEBALL PROGRAM; WHILE LEVERAGING PREVIOUSLY APPROPRIATED CITY FUNDS AS NEEDED: FURTHER APPROPRIATING THE GRANTS IF APPROVED AND ACCEPTED BY THE CITY AND AUTHORIZING THE **EXECUTION OF ALL NECESSARY DOCUMENTS RELATED TO THESE** APPLICATIONS.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

1) Approval to submit a grant application to the State of Florida, Cultural Facilities Grant Program for funding in an amount not to exceed \$500,000 for renovations to the Byron Carlyle Theater

The Cultural Facilities Program provides funds for the renovation of Cultural Facilities in the State of Florida. The City intends to submit an application for funding for the west side of the Byron Carlyle Theater to renovate the roof of the west side of the building. The east side of the building is already renovated. The City intends to request funds in an amount not to exceed \$500,000 with matching funds available in various City accounts, including Quality of Life funds, Miami Beach Community Development Corporation funds, Miami-Dade County Cultural Affairs Grant, North Beach

Commission Memorandum July 7, 2004 Page 2

Development Corporation Funding, and City of Miami Beach Fund 301. The grant deadline is July 26, 2004.

2) Approval to submit a grant application to the State of Florida, Cultural Facilities Grant Program for funding in an amount not to exceed \$500,000 for renovations to the Rotunda

The Cultural Facilities Program provides funds for the renovation of Cultural Facilities in the State of Florida. The City intends to submit an application for funding for the Rotunda, which is part of the Collins Park project. Matching funds are required and will be provided from City Center RDA funding. The grant deadline is July 26, 2004.

3) Approval to submit a grant application to the Visitor and Convention Authority for funding in an amount not to exceed \$20,000 for the Bass Museum's Paris Moderne Exhibit

The Visitor and Convention Authority (VCA), through its Tourism Advancement Program provides funding for activities and events that support tourism promotion. The Bass Museum will be holding the Paris Moderne Exhibit, which is a major exhibition from France from October 1, 2004 - January 17, 2005. The City intends to apply for funding for the Paris Moderne Exhibit. The application deadline is August 2004. No match is required for this grant.

4) Approval to submit a grant application to the Baseball Tomorrow Fund for funding in an amount not to exceed \$60,000 for the City of Miami Beach Baseball Programs

The Baseball Tomorrow Fund is a joint initiative of Major League Baseball and the Major League Baseball Players Association. The mission of the Baseball Tomorrow Fund is to promote and enhance the growth of baseball in the United States and throughout the world by funding program's fields and equipment purchases to encourage and maintain youth participation in the game. The City intends to apply to the Baseball Tomorrow Fund for funding for its baseball programs. The Fund has deadlines on a rotating cycle - with upcoming deadlines of July 1 and October 1, 2004. No match is required for this grant.

CONCLUSION

The Administration recommends approval of this Resolution authorizing the City Manager or his designee to submit four (4) applications for grant funding.

JMG/KB/RCM/CMC/FB/TH/JH

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RESOLUTION MAYOR AND OF THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SUBMIT GRANT APPLICATIONS TO THE FOLLOWING FUNDING AGENCIES: 1) THE STATE **OF** FLORIDA. **CULTURAL FACILITIES** PROGRAM FOR FUNDING IN AN AMOUNT NOT TO **EXCEED \$500,000 FOR RENOVATIONS TO THE** BYRON CARLYLE THEATER; 2) THE STATE OF FLORIDA, CULTURAL FACILITIES GRANT PROGRAM FOR FUNDING IN AN AMOUNT NOT TO EXCEED \$500,000 FOR THE ROTUNDA; 3) THE VISITOR AND CONVENTION AUTHORITY FOR FUNDING IN AN AMOUNT NOT TO EXCEED \$20,000 FOR THE BASS MUSEUM'S PARIS MODERNE EXHIBIT; AND 4) THE BASEBALL TOMORROW FUND FOR FUNDS IN AN AMOUNT NOT TO EXCEED \$60,000 FOR THE CITY'S BASEBALL PROGRAMS: **ALSO** LEVERAGING PREVIOUSLY APPROPRIATED CITY **FUNDS** NEEDED: FURTHER APPROPRIATING THE GRANTS IF APPROVED AND ACCEPTED BY THE CITY AND **AUTHORIZING THE EXECUTION OF ALL NECESSARY DOCUMENTS RELATED TO THESE APPLICATIONS**

WHEREAS, the Cultural Facilities Program provides funds for the renovation of Cultural Facilities in the State of Florida; and

WHEREAS, the City intends to submit an application for funding in an amount not to exceed \$500,000 to renovate the roof of the west side of the Byron Carlyle Theater; and

WHEREAS, matching funds are available in various City accounts, including Quality of Life funds, Miami Beach Community Development Corporation funds, Miami-Dade County Cultural Affairs grant funds, North Beach Development Corporation funding, and City of Miami Beach Fund No. 301; and

WHEREAS, the grant deadline is July 26, 2004; and

WHEREAS, the City also intends to submit an application for funding to the Cultural Facilities Grant Program for the Rotunda, which is part of the Collins Park Project; and

WHEREAS, matching funds are required and will be provided from City Center Redevelopment Area funding; and

WHEREAS, the grant deadline is July 26, 2004; and

WHEREAS, the Visitor and Convention Authority (VCA), through its Tourism Advancement Program, provides funding for activities and events that support tourism promotion; and

WHEREAS, the Bass Museum will be holding the Paris Moderne Exhibit from October 1, 2004 - January 17, 2005 and the City intends to apply for funding for this exhibit; and

WHEREAS, the application deadline is August 2004; and

WHEREAS, no match is required for this grant; and

WHEREAS, the Baseball Tomorrow Fund is a joint initiative of Major League Baseball and the Major League Baseball Players Association with the mission of promoting and enhancing the growth of baseball; and

WHEREAS, the City intends to apply to the Baseball Tomorrow Fund for funding for its Parks and Recreation baseball programs; and

WHEREAS, the Baseball Tomorrow Fund has deadlines on a rotating cycle - with upcoming deadlines of July 1 and October 1, 2004; and

WHEREAS, no match is required for this grant.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH that the Mayor and City Commission hereby authorize the City Manager or his designee to submit grant applications to the following funding agencies: 1) the State of Florida, Cultural Facilities Grant Program for funding in an amount not to exceed \$500,000 for renovations to the Byron Carlyle Theater; 2) the State of Florida, Cultural Facilities Grant Program for funding in an amount not to exceed \$500,000 for The Rotunda; 3) the Visitor and Convention Authority for funding in an amount not to exceed \$20,000 for The Bass Museum's Paris Moderne Exhibit; and 4) The Baseball Tomorrow Fund for funds in an amount not to exceed \$60,000 for the City's baseball programs; also leveraging previously appropriated City funds as needed; further appropriating the grants if approved and accepted by the City and

authorizing the execution of all necessary do	ocuments related	d to these applications.
PASSED and ADOPTED this	day of	, 2004
ATTEST:		
	_	MAYOR
CITY CLERK		
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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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COR	ıaeı	nsed	I ITI	e:

A resolution authorizing execution of a Consortium agreement with Miami-Dade County, Monroe County, the City of Miami, and the City of Hialeah to continue to conduct programs under the South Florida Employment And Training Consortium.

issue:

Shall the City Commission enter into the Consortium agreement with Miami-Dade County, Monroe County, the City of Miami, and the City of Hialeah to continue to conduct programs under the South Florida Employment And Training Consortium?

Item Summary/Recommendation:

This agreement will ensure that the City of Miami Beach's citizens receive employment and training services and will be one of the governing bodies making decisions relative to the benefits of this program. Programs sponsored by the Consortium aim to improve the ability of the disadvantaged citizens to become productive participants in our local economy.

Advisory Board Recommendation:		
N/A	 7 Hz	

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
inance Dept.	Total			

City Clerk's Office Legislative Tracking:

Mayra D. Buttacavoli

Sign-Offs:

Department Director	Assistant City Manager	City Manager
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AGENDA ITEM <u>C7K</u>
DATE <u>7-7-04</u>

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.ci.miami-beach.fl.us



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONSORTIUM AGREEMENT WITH MIAMI-DADE COUNTY, MONROE COUNTY, THE CITY OF MIAMI, AND THE CITY OF HIALEAH FOR THE PURPOSE OF CONTINUING TO CONDUCT PROGRAMS UNDER THE SOUTH FLORIDA EMPLOYMENT AND TRAINING CONSORTIUM; SAID AGREEMENT EFFECTIVE RETROACTIVELY, AS OF JULY 1, 2004, AND EXPIRING ON JUNE 30, 2006, OR WHEN RE-ENACTED BY THE CONSORTIUM MEMBERSHIP,

WHICHEVER OCCURS FIRST.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

On October 23, 2002, the City entered into an agreement with South Florida Employment and Training Consortium (SFETC), whose legislative body consists of representatives of Miami-Dade County, Monroe County, the City of Hialeah, the City of Miami, and the City of Miami Beach. The agreement was for two (2) years, from July 1, 2002 to June 30, 2004. The agreement may be renewed by the affirmative vote of the governing bodies of each and all of the member jurisdictions. The purpose of this Consortium is to implement and operate an intergovernmental liaison office to continue to conduct programs on an areawide basis under the Workforce Investment Act of 1998.

The proposed agreement will ensure that the City of Miami Beach's citizens receive employment and training services. These services are offered to citizens within our City limits as well as other parts of our County. Programs sponsored by the Consortium aim to improve the ability of disadvantaged citizens to become productive participants in our local economy. The benefits of such programs naturally flow back and forth across local boundaries and enhance the overall well being of the Greater Miami area. This agreement is for two (2) years from July 1, 2004 to June 30, 2006. The agreement may be renewed by the affirmative vote of the governing bodies of each and all of the member jurisdictions.

CONCLUSION

The Administration recommends adoption of the attached Resolution which authorizes the execution of a Consortium Agreement with Miami-Dade County, Monroe County, the City of Miami, and the City of Hialeah, effective July 1, 2004, through June 30, 2006. By approving this Agreement, the Mayor and Commission will ensure that the City of Miami Beach will be one of the governing bodies making decisions relative to the benefits of this program.

JMG:MDB:GPL:YS

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RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONSORTIUM AGREEMENT WITH MIAMI DADE COUNTY. MONROE COUNTY, THE CITY OF MIAMI, AND THE CITY OF HIALEAH FOR THE PURPOSE OF CONTINUING TO CONDUCT PROGRAMS UNDER THE SOUTH FLORIDA EMPLOYMENT AND TRAINING CONSORTIUM; SAID AGREEMENT EFFECTIVE RETROACTIVELY, AS OF JULY 1, 2004, AND EXPIRING ON JUNE 30, 2006, OR WHEN **RE-ENACTED** BY THE **CONSORTIUM** MEMBERSHIP, WHICHEVER OCCURS FIRST.

WHEREAS, the City is a member of the South Florida Employment and Training Consortium (Consortium) and is a party, along with Miami-Dade County, the City of Miami, the City of Hialeah and Monroe County, to a Consortium Agreement (Consortium Agreement); and

WHEREAS, the purpose of this Consortium is to continue to conduct programs on an area-wide basis under the Workforce Investment Act of 1998, as amended from time to time, and which provides employment and training opportunities for the economically disadvantaged, unemployed, underemployed or otherwise meeting the eligibility criteria of any program operated under the Agreement and to assure universal access to training resources for the population of the two-county area; and

WHEREAS, the City renewed the Consortium Agreement on July 1, 2000, designating the City Manager as official representative to said Consortium; and

WHEREAS, this Consortium has caused to be created a Regional Workforce Board in accordance with the Workforce Investment Act of 1998 and the State of Florida Workforce Innovation Act of 2000 to be known as the South Florida Workforce, which is a separate entity whose members shall be appointed by the Consortium's member local governmental jurisdictions, of which the City has been allocated three (3) seats; and

WHEREAS, the execution of the attached Consortium Agreement is to implement and operate an intergovernmental liaison office, and is herein recommended by the Administration; and

WHEREAS, this Consortium Agreement shall be effective retroactively, from July 1, 2004, and shall expire on June 30, 2006, or when re-enacted by the membership,

1, 2004, and shall expire on June 30, 2006, or when re-enacted by the membership, whichever first occurs.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk are authorized to execute the attached Consortium Agreement with Miami Dade County, Monroe County, the City of Miami, and the City of Hialeah for the purpose of continuing to conduct programs under the South Florida Employment and Training Consortium; said Agreement effective retroactively, as of July 1, 2004, and expiring on June 30, 2006, or when re-enacted by the Consortium membership, whichever occurs first.

PASSED and ADOPTED this day of	, 2004.
ATTEST:	
CITY CLERK	MAYOR

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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

CONSORTIUM AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of July, 2004 by and among:

Miami-Dade County, A political subdivision of

the State of Florida. 111 N.W. First Street Miami, FL 33128

The City of Miami, A municipal corporation of

the State of Florida.

3500 Pan American Drive

Miami, FL 33133

The City of Hialeah, A municipal corporation of

the State of Florida. 501 Palm Avenue Hialeah, FL 33011

The City of Miami Beach, A municipal corporation of

the State of Florida.

1700 Convention Center Drive

Miami Beach, FL 33139

Monroe County, A political subdivision of

the State of Florida.

Courthouse

Key West, FL 33040

WHEREAS, it is desirable to conduct programs on an area wide basis providing for employment and training opportunities for the economically disadvantaged, unemployed, underemployed or otherwise meeting the eligibility criteria of any program operated under this Agreement and to seek to assure universal access to training resources for the population of the two-county area and to seek to assure that training and other services are organized and delivered in the most effective and efficient manner; and

WHEREAS, Miami-Dade County, the City of Miami, the City of Hialeah, the City of Miami Beach, and Monroe County are located in proximity to each other and have entered into an Agreement creating the South Florida Employment and Training Consortium; and

WHEREAS, all of Miami-Dade County and all of Monroe County can be effectively served by the Consortium created by this Agreement; and

WHEREAS, the parties to this Agreement hereby find that as a Consortium the parties are best able to plan and operate a workforce development program to obtain administrative and programmatic advantages; and

WHEREAS, the parties hereto hereby find that the interests of Monroe County residents and Miami-Dade County residents would be best-served by the South Florida Employment and Training Consortium (herein referred to as "SFETC" or "Consortium") continuing to act as the Local Elected Officials under the Workforce Investment Act (hereinafter referred to as the "Act") for the Miami-Dade and Monroe Counties area (Region 23); and

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Section 163.01 et seq., Florida Statutes 1977 and the Miami-Dade County Home Rule Charter provide a method for governmental entities to join together to implement these workforce programs;

NOW, THEREFORE, in consideration of the covenants, conditions, and premises herein set forth, the parties hereto agree as follows:

- The parties hereto jointly and individually agree to continue to cooperate and participate with each other as the entity known as the South Florida Employment and Training Consortium (SFETC). The SFETC shall continue to be a public body corporate and politic which, through its governing body, may exercise all those powers either specifically granted herein or necessary in the exercise of those powers set forth herein. The SFETC shall be empowered to sue and be sued, to plead and be impleaded, to contract and be contracted with, to enforce contracts and agreements, and to have an official seal and alter same. This provision shall not be construed to in any way affect the laws relating to governmental immunity.
- The purpose of this Consortium is to continue to conduct programs on an area-wide basis under the federal Workforce Investment Act of 1998, as amended from time to time, as the Local Elected Officials (LEOs') of Region 23 ("Area").
- 3. This Agreement shall be approved by the affirmative vote of the governing body of each member jurisdiction of the Area, to wit, the City Commission of the City of Miami, the City Council of the City of Hialeah, the City Commission of the City of Miami Beach, the Board of County Commissioners of Miami-Dade County, and the Board of County

- Commissioners of Monroe County, and shall supersede the Consortium Agreement which expires on June 30, 2004.
- 4. There is hereby created a South Florida Employment and Training Consortium Board ("SFETC Board") which shall be the governing board of the Consortium. The representatives to the SFETC Board from each member jurisdiction shall be the chief elected official or if the chief elected official is unable or unwilling to represent the member jurisdiction in said capacity, the chief elected official may appoint another elected official, or, in the alternative, the chief non-elected/appointed official or the assistant chief, non-elected/appointed official shall represent the member jurisdiction. The member jurisdictions of the Consortium, at a meeting of the SFETC Board, shall elect a chairperson of the SFETC Board who shall serve for a term of two (2) years or until the chairperson resigns, whichever occurs first.
- 5. The Consortium created hereby, acting by and through the SFETC Board, shall have the following authority and responsibilities:
 - a. To receive all grants, funds, allocations, and any and all forms of revenue based on, or pursuant to the Act; to receive grants, gifts, or other resources from any agency or agencies of the United States Government and the State of Florida or from other sources.
 - To employ, supervise and evaluate staff sufficient to carry out its duties as grant recipient of workforce development funds awarded to Region 23.

- c. To enter into contracts or agreements with any corporation, municipality, or any other legal entity, public or private, or any other person or persons for the performance of such services as may be required by the terms of any grant, contract, or agreement entered into, or with, any agency or agencies of the government of the State of Florida or of the United States, or any other legal entity in accordance with State and federal law.
- d. To promulgate, by four (4) affirmative votes of the SFETC Board members present and voting, policies necessary for the conduct of its business.
- e. To expend funds for both planning and administrative purposes as deemed necessary for the conduct of its business.
- f. To consult with and retain experts and purchase or lease or otherwise provide for such services, supplies, materials, equipment and facilities as the SFETC Board deems necessary.
- g. To provide for an annual financial audit of the South Florida

 Employment and Training Consortium by an independent auditor.
- h. To engage legal services.
- To enter into an Interlocal Agreement with the South Florida
 Workforce Board as set forth in state and federal law.
- j. To be the "grant recipient" for the Area and to perform the duties and responsibilities required of a "grant recipient" by WIA.

- k. To designate South Florida Workforce (hereinafter referred to as "SFW") as the "Administrative Entity" for all WIA, TANF, and similar and successor workforce programs operated within the Area to perform the planning, operation, administration, and management of such programs. SFW staff shall carry out the policy objectives jointly established by the SFETC Board and the SFW Board.
- I. To assume financial liability in accordance with state and federal law.
- m. To designate the local fiscal agent in accordance with state and federal law.
- n. To assume and perform the following roles and responsibilities jointly with the SFW Board:
 - Selection, retention, and annual review of an Executive Director who shall report to both the SFETC Board and SFW Board and shall be the Chief Operating Officer of SFW;
 - ii. Implementation of strategic planning; development of plan guidelines; and approval of local plan documents for submission to the State of Florida:
 - iii. Selection, designation, or termination of One Stop Operator(s), core service providers, and intensive services providers;
 - iv. Establishment of budget priorities and approval of the annual operating budget;
 - v. Approval of funding decisions, contract awards, renewals, deobligations, and terminations (including award of contracts to Youth Providers based upon recommendations of the Youth Council) and award of contracts for intensive services;

- vi. Negotiation of local performance measures with the State of Florida;
- vii. Appointment of the Youth Council based upon federal and state criteria;
- viii. Selection of an independent auditor;
- ix. Approval of litigation and settlement of claims;
- x. Oversight of the regional workforce system by monitoring the effectiveness of SFW, performance of contractors and reviewing reports on program outcomes and results; and
- xi. Approval of Memoranda Of Understanding with One-Stop Partners.
- o. To cause, jointly with the SFW Board, the SFW to administer programs in accordance with applicable federal, state, and local law, rules and regulations and to delegate, jointly with the SFW Board, to the SFW, the following roles and responsibilities:
 - i. Provide staff support to the SFETC Board and SFW Board;
 - ii. Prepare strategic and compliance plans; carry out research and development work for program planning;
 - iii. Implement plans and budget priorities by developing and issuing RFPs; managing competitive procurement process; and developing funding recommendations;
 - iv. Issue policy guidances and directives; provide training to contractors;
 - v. Negotiate contracts for services; draft contracts; manage contracts:
 - vi. Disburse funds as directed by the SFW Board and SFETC Board; provide financial administration; pay invoices; manage/report local financial information to both Boards; meet financial reporting requirements of funding sources;

- vii. Collect program data necessary for the management, evaluation and preparation of required or requested reports;
- viii. Monitor and evaluate program operations pursuant to funds received;
- ix. Recommend the annual budget to the SFETC Board and the SFW Board;
- x. Engage and pay the costs of the independent auditors annually designated by the SFW Board and SFETC Board;
- xi. Administer programs as described in required plans;
- xii. Determine and verify participant eligibility as described in grants received;
- xiii. Procure and maintain fixed assets and expendable supplies necessary for program operations;
- xiv. Manage a system to hear and resolve grievances brought by participants, contractors, and other interested parties as required by grants received;
- xv. Provide financial administration for all program operations;
- xvi. Conduct compliance monitoring of contracted providers;
- xvii. Promote community relations and marketing with partners/contractors, businesses and organizations, participants and potential participants;
- xviii. Interface with funding sources WFI, AWI, USDOL, DCF; and
- xix. Oversee and manage operational aspects and performance of programs.
- 6. This Agreement shall become effective on July 1, 2004, after its execution by all of the designated officers of all member jurisdiction governing bodies, and shall expire on June 30, 2006. This Agreement may be renewed by the affirmative vote of the governing bodies of each and all of the member jurisdictions.

- 7. The Consortium, acting by and through the SFETC Board, has caused to be created a Regional Workforce Investment Board for Region 23 in accordance with the Act. This Regional Workforce Investment Board shall be known as the South Florida Workforce Board ("SFW Board"). The SFW Board shall be a separate legal entity whose Board members shall be appointed by the Consortium member jurisdictions according to a formula for apportioning such appointments. This formula shall be agreed to by the member jurisdictions of the Consortium at a public meeting of the SFETC Board. All such appointments shall be in accordance with state and federal law.
- 8. This Agreement may be amended from time to time or terminated upon the affirmative vote of each and all of the governing bodies of the parties hereto.
- 9. During the term of this Agreement any party hereto shall have the right to withdraw from this Agreement upon the following conditions:
 - a. The SFETC Board shall have received written notice of the party's decision to withdraw no later than ninety (90) days before the end of the then current Workforce Investment Act fiscal year.
 - b. The withdrawing party shall not be released from any current or past financial obligations or any other current or past obligations incurred or agreed to by the withdrawing party.
- A majority of the SFETC Board members shall constitute a quorum.
 Action of the SFETC Board shall be valid and binding when adopted at a

- public meeting by a majority of affirmative votes by those SFETC Board members present and voting unless otherwise provided in this Agreement.
- 11. Each member jurisdiction of the Consortium agrees to promptly contribute to any SFETC liability incurred under this Agreement as follows:
 - a. No liability shall be paid by any Consortium member or by the SFETC unless ordered by a court of competent jurisdiction or other superior state or federal governmental entity or unless otherwise agreed by affirmative vote of the SFETC Board. The majority vote necessary to approve payment of any financial claim or financial liability shall include the vote of either the City of Miami or Miami-Dade County to be effective.
 - b. Costs and other expenses disallowed by the state or federal government or by the SFETC/SFW Boards with respect to contracts between the SFETC/SFW Boards and an individual Consortium member jurisdiction for the provision of workforce services shall be paid by and shall be the financial liability solely of the same individual Consortium member jurisdiction.
 - Costs and other expenses disallowed with respect to contracts
 between SFETC/SFW Boards and any service providers or caused

by SFW staff errors shall be paid by and shall be the financial liability of:

Miami-Dade County	42.2%
Miami, City of	33.3%
Hialeah, City of	11.1%
Miami Beach, City of	6.7%
Monroe County	6.7%
TOTAL	100%

d. In the event that a new political jurisdiction is permitted to join this Consortium, the financial liability of the new political jurisdiction shall be pro-rated according to the allocation of appointments to the SFW Board.

THIS AGREEMENT IS ENTERED INTO ON BEHALF OF:

		MIAMI-DADE COUNTY
WITNESSES:		
	 Deputy Clerk	BYCounty Manager

THIS AGREEMENT IS ENTERED INTO ON BEHALF OF:

		CITY OF MIAMI	
WITNESSES:			
	City Clerk	BY City Manager	

THIS AGREEMENT IS ENTERED INTO ON BEHALF OF:

		CITY OF HIALEAH
WITNESSES:		
		BY
	City Clerk	Mayor

THIS AGREEMENT	IS ENTERED INTO ON BEHALF OF:
	CITY OF MIAMI BEACH
ATTEST:	
	Mayor Mayor

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

THIS AGREEMENT IS ENTERED INTO ON BEHALF OF:

		MONROE COUNTY A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS
WITNESSES:		
	Deputy Clork	BY

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A resolution authorizing a Multi-Family Housing Rehabilitation Program Matching Grant Agreement with the MBCDC: 532 Michigan Avenue, LLC, a wholly-owned affiliate of the Miami Beach Community Development Corporation (MBCDC), in the amount of \$324,596 in Community Development Block Grant (CDBG) program funds through the Multi-Family Housing Rehabilitation Program for the rehabilitation of the Aimee Apartments located at 532 Michigan Avenue, Miami Beach, to provide eighteen (18) rental units for income-eligible tenants for a minimum period of five (5) years.

Issue:

Shall the City provide a Multi-Family Housing Rehabilitation Program Matching Grant Agreement with the 532 Michigan Avenue, LLC, in the amount of \$324,596 for the rehabilitation of the Aimee Apartments to provide eighteen (18) rental units for income-eligible tenants for a minimum period of five (5) years?

Item Summary/Recommendation:

Execute the Multi-Family Housing Rehabilitation Program Matching Grant Agreement with the MBCDC: 532 Michigan Avenue, LLC, a wholly-owned affiliate of the Miami Beach Community Development Corporation (MBCDC), in the amount of \$324,596 in Community Development Block Grant (CDBG) program funds through the Multi-Family Housing Rehabilitation Program for the rehabilitation of the Aimee Apartments located at 532 Michigan Avenue, Miami Beach, to provide eighteen (18) rental units for income-eligible tenants for a minimum period of five (5) years.

Advisory Board Recommendation:

On May 28, 2004, the City's Loan Review Committee (LRC) met and reviewed the application for funding for this property and voted to recommend approval by the Mayor and City Commission. The LRC recommended a Grant of \$324,596 towards the rehabilitation costs for the property.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1	\$184,850	131.5110.000346	
	2	139,746	133.5110.000346	
CDBG	3			
	4			
Finance Dept.	Total	\$324,596		

City Clerk's Office Legislative Tracking:

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L					

Sign-Offs:

Department Director	Assistant City Manager	^	City Manager	
			are ~	
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AGENDA ITEM <u>C7L</u>
DATIF₇ 7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MULTI-FAMILY HOUSING REHABILITATION PROGRAM MATCHING GRANT AGREEMENT WITH THE MBCDC: 532 MICHIGAN AVENUE, LLC, A FLORIDA LIMITED LIABILITY CORPORATION, ESTABLISHED AS A WHOLLY-OWNED AFFILIATE OF THE MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), IN THE AMOUNT OF \$324,596 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS THROUGH THE MULTI-FAMILY HOUSING REHABILITATION PROGRAM FOR THE REHABILITATION OF THE AIMEE APARTMENTS LOCATED AT 532 MICHIGAN AVENUE, MIAMI BEACH, TO PROVIDE EIGHTEEN (18) RENTAL UNITS FOR INCOME-ELIGIBLE TENANTS FOR

A MINIMUM PERIOD OF FIVE (5) YEARS.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The City administers the Multi-Family Housing Rehabilitation Program through the Housing and Community Development Division of the Neighborhood Services Department. Since 1981, the City has provided financial assistance to property owners through this Program resulting in the successful renovation of over 1,250 units of rental housing. The Multi-Family Housing Rehabilitation Program operates with federal funds from the U.S. Department of Housing and Urban Development (HUD) through the Community Development Block Grant (CDBG) Program.

The Program Guidelines, adopted by the Mayor and City Commission on December 10, 2003, require that rehabilitated buildings be maintained in rental use for at least five (5) years, and that 51 percent of the units be offered at affordable rental rates for that period. The proposed Matching Grant Agreement with the property owner includes stipulations

July 7, 2004 Commission Memorandum 532 Michigan Avenue Page 2

requiring repayment to the City of the full amount of the Grant in case the owner fails to perform the requirements of the Agreement.

Under the terms of a HOME Program Agreement, last amended on September 10, 2003, MBCDC: 532 Michigan Avenue, LLC, a Florida Limited Liability Corporation, established as a wholly-owned affiliate of the Miami Beach Community Development Corporation (MBCDC), received a total of \$1,517,008 in HOME Program funds from the City for the development of the Aimee Apartments, a 18-unit HOME Program rehabilitation project. MBCDC successfully obtained other public and private funds, including \$500,000 from the Miami-Dade County Documentary Surtax Program, \$200,000 from the Federal Home Loan Bank, and private financing for the rehabilitation of the building. The total cost of the project is estimated to be \$2,372,821.

532 Michigan Avenue - Funding Recommended: \$324,596

The building at 532 Michigan Avenue was built in 1925 as an apartment building. The architecture of the structure is Mission Revival. The building has been reviewed by the City of Miami Beach Historic Preservation Board and was found to be located within the Flamingo Park Local Historic District and is designated contributing in the Miami Beach Historic Properties Database. The building is a concrete block structure with approximately 9,961 square feet of enclosed space. The applicant proposes to rehabilitate the building, reducing the number of units to provide fourteen (14) one bedroom units and four (4) efficiency units, which provides an average of 553 square feet per living unit.

The proposed improvements are estimated to cost \$1,558,300. The scope of work on the apartment building will encompass all aspects of the property: electrical, plumbing, structural, and configuration. The rehabilitation of the building is currently underway and at its completion the building will be brought up the current South Florida Building Code. MBCDC will provide a match of \$700,000 toward the rehabilitation of the property through a line of credit with the Commercial Bank and a construction Loan through a Surtax Future Advance Loan.

The Miami Beach Community Development Corporation purchased the subject property in August of 2001. The appraised value of the building is \$2,408,300, based on the purchase price of the building (\$850,000) and the value of the rehabilitation (\$1,558,300). Accepting this price as market value, the City's contribution to the construction cost of \$330,000 is less than 50 percent of the market value of the land and building after rehabilitation.

On September 10, 2003, the City and MBCDC entered into a HOME Program Agreement for this property to provide affordable units for a period of fifteen (15) years. Therefore, under the Multi-Family Housing Rehabilitation Agreement, the Owner will provide a five years period of affordability for ten (10) of the units starting at the time of completion of the HOME Program Agreement. These ten (10) units will be reserved for occupancy by tenants earning 80 percent or less of the Area Median Income as determined by HUD, for a period of five (5) years. The rents are to be established in accordance with the CDBG Program Rent schedule as issued by the U.S. Department of Housing and Urban Development (HUD) for apartments. Currently, the approved net rents under this schedule

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July 7, 2004 Commission Memorandum 532 Michigan Avenue Page 3

are: \$510 per month for an efficiency unit (3) and \$650 per month for one-bedroom units (7). For these units, the eligible tenant incomes are restricted to a maximum of 80% of Area Median Income. According to HUD survey data, 80% of the Area Median Income for Miami-Dade County for a family of two is currently \$30,850 per year.

On May 28, 2004, the City's Loan Review Committee (LRC) met and reviewed the application for funding for this property and voted to recommend approval by the Mayor and City Commission. The LRC recommended a Grant of \$324,596 towards the rehabilitation costs for the property. The project qualifies for a maximum of \$330,000 of CDBG Program funds as a matching grant under the Program Guidelines, based on twenty two (22) apartments at \$15,000 per unit.

A review of City and County records for the property indicates that there are no unpaid water or sanitation bills, and taxes are paid for the current year. In accordance with the Program Guidelines, the rehabilitation proposed will bring the property into compliance with the City's Property Maintenance Standards.

This building currently has no existing tenants. Therefore, no relocation will be required.

The Administration recommends that the Mayor and City Commission adopt the attached resolution authorizing the Mayor and City Clerk to execute the attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement with the MBCDC: 532 Michigan Avenue, LLC, a Florida Limited Liability Corporation, established as a whollyowned affiliate of the Miami Beach Community Development Corporation (MBCDC), in the amount of \$324,596 in Community Development Block Grant (CDBG) Program Funds through the Multi-Family Housing Rehabilitation Program for the rehabilitation of the Aimee Apartments located at 532 Michigan Avenue, Miami Beach, to provide eighteen (18) rental units for income-eligible tenants for a minimum period of five (5) years.

RCM/VPG/JR/MDC/SKC

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RESOLUTION NUMBER	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MULTI-FAMILY HOUSING REHABILITATION PROGRAM MATCHING GRANT AGREEMENT WITH MBCDC: 532 MICHIGAN AVENUE, LLC, A FLORIDA LIMITED LIABILITY CORPORATION, ESTABLISHED AS A WHOLLY-OWNED AFFILIATE OF THE MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), IN THE AMOUNT OF \$324,596 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS THROUGH THE MULTI-FAMILY HOUSING REHABILITATION PROGRAM FOR THE REHABILITATION OF THE AIMEE APARTMENTS, LOCATED AT 532 MICHIGAN AVENUE, MIAMI BEACH, TO PROVIDE EIGHTEEN (18) RENTAL UNITS FOR INCOME-ELIGIBLE TENANTS FOR A MINIMUM PERIOD OF FIVE (5) YEARS.

WHEREAS, on February 18, 1992, the City was designated by the U.S. Department of Housing and Urban Development (HUD) as a Participating Jurisdiction to receive funding through the HOME Investment Partnerships (HOME) Program; and

WHEREAS, on June 6, 2001, the City adopted Resolution No. 2001-24453, authorizing a HOME Program Agreement between the City and MBCDC to provide \$328,987 of HOME Program funds for the acquisition and rehabilitation of an apartment building located at 532 Michigan Avenue, Miami Beach; and

WHEREAS, on February 20, 2002, the City adopted Resolution No. 2002-24748, authorizing a First Amendment to the HOME Program Agreement with MBCDC to utilize \$614,913 of the previously committed Fiscal Year 2001/02 Community Housing Development Organization funds for the aforementioned project to acquire and rehabilitate the apartment building located at 532 Michigan Avenue; and

WHEREAS, on May 29, 2002, the City adopted Resolution No. 2002-24863, authorizing a Second Amendment to the HOME Program Agreement with MBCDC replacing the previously committed \$614,913 HOME Program funds from Fiscal Year 2001/02, with \$614,913 in HOME Program funds from Fiscal Years 1992/1993 and Fiscal Years 1993/1994; and

WHEREAS, on November 13, 2002, the City adopted Resolution No. 2002-25058, authorizing a Third Amendment to the HOME Program Agreement, dated June 6, 2001, between the City and MBCDC, to provide \$208,777 of HOME Program funds for the acquisition and rehabilitation of the property; and

WHEREAS, on September 10, 2003, the City adopted Resolution No. 2003-25321 authorizing a Fourth Amendment to the HOME Program Agreement, dated September 10,

2003, between the City and MBCDC, to provide \$364,331 of HOME Program funds towards the rehabilitation of the property; and

WHEREAS, the City has established a program to encourage the rehabilitation of existing multi-family buildings using funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Multi-Family Housing Rehabilitation Program (Program) is administered by the City's Neighborhood Services Department; and

WHEREAS, on December 10, 2003, the Mayor and City Commission approved and adopted revised Guidelines for the Multi-Family Housing Rehabilitation Program; and

WHEREAS, the City has received an application under the Program Guidelines for funding the rehabilitation of the building located at 532 Michigan Avenue, which contains twenty two (22) one-bedroom units to provide eighteen (18) units of affordable housing; and

WHEREAS, the owner of this property, MBCDC: 532 Michigan Avenue, LLC, a Florida Limited Liability Corporation, established as a wholly-owned affiliate of the Miami Beach Community Development Corporation (MBCDC), has agreed to offer a minimum of ten (10) of the eighteen (18) units at reduced rental rates for a minimum of five (5) years of affordability starting at the time of satisfaction of the HOME Program Agreement dated June 6, 2001, and as amended, with MBCDC; and

WHEREAS, the City's Loan Review Committee, at its May 28, 2003, meeting, recommended that the Mayor and City Commission fund the proposed rehabilitation of 532 Michigan Avenue with a Multi-Family Housing Rehabilitation Matching Grant, in the amount of \$324,596 in Community Development Block Grant funds; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk are authorized to execute the attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement with MBCDC: 532 Michigan Avenue, LLC, a Florida Limited Liability Corporation, established as a wholly-owned affiliate of the Miami Beach Community Development Corporation (MBCDC), in the amount of \$324,596 in Community Development Block Grant (CDBG) Program Funds through the Multi-Family Housing Rehabilitation Program for the rehabilitation of the Aimee Apartments, located at 532

Michigan Avenue, Miami Beach, to provide eighteen	(18) rental units for income-eligible
tenants for a minimum period of five (5) years.	•

PASSED AND ADOPTED THIS_	DAY OF	, 2004.
ATTEST:		
CITY CLERK T:\AGENDA\2004\Jul0704\Consent\532 Michigan Avenue - MFHP Reso.doc	MAYOR	

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

_ _...

This instrument prepared by: Raul Aguila, First Asst. City Atty. 1700 Convention Center Dr. Miami Beach, FL 33139

MULTI-FAMILY HOUSING REHABILITATION PROGRAM MATCHING GRANT AGREEMENT

THIS AGREEMENT entered into this _____ day of ______, 2004, by and between:

MBCDC: 532 Michigan Avenue, LLC, whose business address is 945 Pennsylvania Avenue, 2nd Floor, Miami Beach.
Florida 33139, hereinafter referred to as "Owner", who is the legal owner of the property at 532 Michigan Avenue.
Miami Beach, Florida, 33139 more particularly described as:

Lot 4 of Block 98, OCEAN BEACH ADDITION NUMBER THREE, according to the plat thereof recorded in Plat Book 2 at Page 81, of the Public Records of Miami-Dade County, Florida, also known as 532 Michigan Avenue, hereinafter referred to as the "Project",

and the City of Miami Beach, a Florida municipal corporation, having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the City has established a Multi-Family Housing Rehabilitation Program, hereinafter referred to as "Program", designed to provide financial assistance to property owners of deteriorated and substandard multi-family residential structures within the City of Miami Beach, Florida, for the purpose of rehabilitating said structures; and

WHEREAS, the policies of said Program are set forth in the City of Miami Beach Multi-Family Housing Rehabilitation Programs Guidelines (Guidelines), amended by the City Commission on December 10, 2003, which are deemed incorporated by reference and made a part of this Agreement; and

WHEREAS, Owner, as the legal Owner of the Project described above, has agreed to rehabilitate said Project in accordance with the Guidelines of the Program; and

WHEREAS, the City's Loan Review Committee on May 28, 2004, recommended approval of assistance to the Project under the Program, and the provision of assistance has been approved by the Mayor and City Commission, subject to certain conditions, including the requirement that the Owner and the City enter into this Agreement; and

WHEREAS, it is acknowledged and agreed between the City and the Owner that funds provided hereunder derive from federal Community Development Block Grant funds appropriated to the City by the U.S. Department of Housing and Urban Development, for the uses and purposes herein referred to, and accordingly it is acknowledged and agreed that this Agreement is entered into after compliance by the parties with all applicable provisions of Federal, State and local laws, statutes, rules and regulations as they may apply to this Agreement, which certain of said regulations are incorporated herein as more fully set forth in Attachment "A".

NOW, THEREFORE, in consideration of the mutual promises contained herein and in consideration of the matching grant monies which are to be paid by City to the Owner, which consideration is hereby acknowledged by the parties, the parties do agree as follows:

- (1) Any amendments, alterations, or variations to this Agreement will only be valid when they have been reduced to writing and duly signed by the parties.
- (2) It is understood and agreed by and between the parties that the Guidelines, as they may be amended from time to time, represent the scope of services and responsibilities of the parties under the Program

and the parties agree to abide by and comply with their roles and responsibilities under the Guidelines as set forth therein.

- (3) City shall have the sole responsibility and obligation of interpreting the intent and purpose of the Program and contract documents.
- (4) Rehabilitation of the Project shall be done in accordance with the applicable codes, ordinances and statutes of the State of Florida, Miami-Dade County, and of the City.
- (5) The maximum Matching Grant amount to be provided under this Agreement is Three Hundred Twenty Four Thousand Five Hundred Ninety Six Dollars (\$324,596). This amount is to be used only to cover the cost of rehabilitating the building, as a match for funds paid by the Owner on at least a dollar-fordollar basis. The structural repairs are to be completed first and any left over money can be used to work on the list of remaining items. The work is to be done in accordance with the application and addendum filed by the Owner with the City, reviewed and recommended by the City's Loan Review Committee on May 28, 2004, and subsequently approved and amended by the Mayor and City Commission.
- (6) It is understood and agreed by and between the parties that none of the obligations of the City assumed or created hereunder shall be general obligations of the City and none of the same shall be enforceable against the City generally. Any and all obligations, liabilities and commitments of the City hereunder, shall be limited to the payment of a Matching Grant amount of Three Hundred Twenty Four Thousand Five Hundred Ninety Six Dollars (\$324,596), as specified herein. No other fiscal, legal, equitable or contractual duty or obligation is assumed by the City, and the Owner by executing this Agreement so agrees.

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$324,596. Owner hereby expresses its willingness to enter into this Agreement with Owner's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$324,596, less the amount of all funds actually paid by the City to Owner pursuant to this Agreement.

Accordingly, Owner hereby agrees that the City shall not be liable to Owner for damages in an amount in excess of \$324,596, which amount shall be reduced by the amount of the funding actually paid by the City to Owner pursuant to this Agreement, for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this subparagraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed on the City's liability as set forth in Florida Statutes, Section 768.28.

- The Matching Grant amount shall be paid to the Owner and shall be disbursed during the rehabilitation of the Project. After this Matching Grant payment is made by the City to the Owner and applied by the Owner according to the procedures set forth herein, the City shall be automatically discharged from any and all obligations, liabilities and commitments hereunder to Owner or any third person or entity provided, however, that this Section shall not excuse the continued compliance by Owner with the terms of this Agreement and the federal Program requirements. Owner, for consideration of One Dollar (\$1.00) and other good, valuable, separate and distinct consideration, receipt of which is hereby acknowledged, hereby saves and holds harmless, indemnifies and protects the City, its officers and employees from any and all obligations, liabilities, commitments, actions, claims, causes of action, suits or demands arising or accruing by virtue of this Agreement or the Project contemplated hereunder.
- (8) The following procedures must be followed, prior to the commencement of work on this Project:

- a) Owner must submit a written request to the City's Housing and Community Development Division of the Neighborhood Services Department ("NSD") for a Pre-Construction Conference, which must be attended by all contractors and subcontractors. This request must include the names and addresses of the proposed contractors and sub-contractors, including the names of the principal owners of corporate entities, and an indication whether each of the contractor's portion of the total project value will exceed \$10,000. This process requires at least ten (10) days advance notification.
- b) Each contractor and/or subcontractor must be found to be eligible to work on a federally funded project. The names submitted will be checked against the "Consolidated List of Debarred, Suspended & Ineligible Contractors and Grantees" monthly listing published by the Federal Government.
- c) If the building is more than 50 years old, Owner's Architect or Engineer must obtain and submit to the City a letter indicating that the plans for the Project have been reviewed by the State Historic Preservation Officer (SHPO) and that the proposed rehabilitation is acceptable to that Office.
- d) A set of final approved plans and specifications for the Project, approved by the City's Building Department, must be submitted to the Housing and Community Development Division of the NSD.
- e) Building permits must be obtained as required by applicable City Ordinance. Also, any other necessary permits and applicable approvals from any other governmental authorities must be obtained, if required.
- f) A copy of the contract between the Owner and a licensed General Contractor must be submitted to the City, which includes commencement and completion dates, contract amount, scope of work, Federal Labor Standards Provisions (HUD Form 4010), and applicable federal regulations and standards.
- g) The contractor selected must submit evidence prior to the commencement of work, satisfactory to the City's Insurance Manager, of the following insurance coverage: 1) Liability insurance against claims arising out of accident or occurrence on the property, in a minimum amount of \$1,000,000, with the City of Miami Beach named as additional insured in the policy; and 2) Proof of worker's compensation coverage; and 3) such other forms of insurance as the City's Risk Manager may reasonably require.
- h) A revised cost breakdown, to include direct and indirect costs of the proposed work, based on the actual contract price.
- i) The Owner must provide a Lien Statement from the City's Finance Department demonstrating that it is current with the legal and financial obligations and/or payments on the Project, and the property herein, with the City.

When the above requirements have been met, the Housing and Community Development Division of the NSD and the Building Services Division will jointly issue a "Notice to Proceed" on the Project. If the Owner or contractor does not fully comply, or if any work commences prior to the issuance of the Notice to Proceed, then such work may, at the discretion of the City, not be reimbursed under the Program, and could constitute a default under this Agreement.

<u>Exception:</u> Subject to the prior approval of the Housing and Community Development Division of the NSD and the Building Services Division, emergency repairs can be undertaken on the Project.

(9) In consideration for the performance of Owner of its role and responsibilities set forth in this Agreement, the City agrees to pay to Owner, the sum of Three Hundred Twenty Four Thousand Five Hundred Ninety Six Dollars (\$324,596), as the total of the Matching Grant described herein. Said total shall be disbursed by the City to the Owner during construction as follows: During the

construction phase, and not more often than once a month, a payment may be requested equivalent to ninety percent (90%) of the pro-rata portion of the value of the work completed in the previous period, as certified by the Owner's Architect or Engineer, and confirmed by the Housing and Community Development Division of the City's Neighborhood Services Department. The City's payments hereunder will be computed based on the ratio of the matching grant amount to the total estimated construction cost. In the event the actual cost is less than the estimate, the amount of the City's Matching Grant will be reduced proportionately, so that the City's portion of the total cost is never higher than 50% of the total cost. The final ten percent (10%) of the matching grant payment shall be paid following the completion, approval and acceptance of the rehabilitation work and related documentation by all the governmental agencies and authorities having jurisdiction over the Project, including compliance with the requirements of the Davis Bacon Act, if applicable, and as set forth in the Guidelines.

- Owner agrees to comply with the following requirements during and after construction begins:

 a) The Owner must announce and publicize the source of the public funds provided for the Project. A construction sign must be displayed on the site during the construction phase, with the design and location to be approved by the City. The sign, to be provided and paid for by the Owner, must be maintained for the duration of the construction work. The City will provide detailed information on the dimensions and appearance of the sign.
 - b) The Owner's General Contractor shall be responsible for compliance with all pollution and asbestos control standards of the concerned governmental agencies. It shall be the Contractor's responsibility to obtain required inspections from these agencies.
 - c) On September 15, 1999, the "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule" was published within title 24 of the Code of Federal Regulations as part 35 (24 CFR 35). The regulation was issued under sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X (ten) of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971, which is the basic law covering lead-based paint in federally associated housing.

The regulation sets hazard reduction requirements that give much greater emphasis to reducing lead in house dust. Scientific research has found that exposure to lead in dust is the most common way young children become lead poisoned. Therefore, the new regulation requires dust testing after paint is disturbed to make sure the home is lead-safe. Specific requirements depend on whether the housing is being disposed of or assisted by the federal government, and also on the type and amount of financial assistance, the age of the structure, and whether the dwelling is rental or owner occupied.

PROPERTY EXEMPT FROM LEAD-BASED PAINT REGULATION.

- Housing built since January 1, 1978, when lead paint was banned for residential use
- Housing exclusively for the elderly or people with disabilities, unless a child under age 6 is expected to reside there
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories or military barracks
- Property that has been found to be free of lead-based paint by a certified lead-based paint inspector
- Property where all lead-based paint has been removed
- Unoccupied housing that will remain vacant until demolished
- Non-Residential property
- Any rehabilitation or housing improvement that does not disturb a painted surface

TYPES OF HOUSING SUBJECT TO 24 CFR 35

- Federally-Owned housing being sold
- Housing receiving a federal subsidy that is associated with the property, rather than with the occupants (project-based assistance)
- Public housing
- Housing occupied by a family (with a child) receiving tenant-based subsidy (such as a voucher or certificate)
- Multifamily housing for which mortgage insurance is being sought
- Housing receiving federal assistance for rehabilitation, reducing homelessness, and other special needs

If you want copies of the regulation or have general questions, you can call the National Lead Information Center at (800) 424-LEAD, or TDD (800) 526-5456 for the hearing impaired. You can also download the regulation and other educational materials at www.hud.gov/lea. For further information, you may call HUD at (202) 755-1785, ext. 104, or e-mail HUD at lead-regulations@hud.gov.

- d) After the Project, and the property herein, has been rehabilitated, it must conform to the applicable codes, ordinances and statutes of the City and of Miami-Dade County, including, but not limited to, the South Florida Building Code, the Zoning Ordinance, and the Property Maintenance Standards.
- It is understood and agreed by Owner that for at least five (5) years beginning at the time of satisfaction of the conditions of that certain HOME Program Agreement (between the City and Miami Beach Community Development Corporation (MBCDC), of which Owner is a wholly owned affiliate, dated May 8, 2002, as same may be amended), a minimum of ten (10) apartment units (56%) will be occupied by low and moderate income households at affordable rents. Low and moderate income households means the combined income of all members of the household does not exceed 80% of the Area Median Income, as published by HUD. All tenants must be offered a written lease. A "Household Income Certification Report" will have to be completed for every rental unit claimed as meeting the above requirements at least annually. This report must be submitted to the Housing and Community Development Division of the NSD within ten (10) days after the commencement of each lease, and an updated form must be submitted at least annually thereafter during the month of August, for the fiscal year ended September 30.

The following income limits apply as of this date, but may be revised annually:

1 person	\$27,000
2 persons	\$30,850
3 persons	\$34,700
4 persons	\$38,550

Monthly rents for units occupied by low and moderate income households are considered affordable if they do not exceed the "40th Percentile Fair Market Rents for Existing Housing", published by HUD, as of this date, but subject to revision annually. Currently the rent for an efficiency apartment is \$570, including a utility allowance of \$60 per month, for a net rent of \$510 per month excluding utilities; a one bedroom apartment is \$717, including a utility allowance of \$67 per month, for a net rent of \$650 per month excluding utilities; and the rent for a two-bedroom apartment is \$894 per month, which includes a \$79 per month utility allowance, for a net of \$815 per month.

(12) It is understood by Owner that if the Project is converted to condominiums, sold, or withdrawn from rental use within five (5) years after the Final Certificate of Completion is issued, the full amount of the Matching Grant payment will become immediately due and payable to the City.

- Owner shall deliver to the Housing and Community Development Division of the NSD, by August 30th of each calendar year, its signed notarized report in form and substance acceptable to the City, which includes the names of tenants, unit type, family income, rents charged, and occupancy factor of each unit for the prior year. This report will continue to be required through the August 30th following the expiration of the five (5) year period after the date of issuance of a Final Certificate of Completion.
- (14)It shall be deemed a default of this Agreement if Owner does not strictly comply with the terms, conditions, duties and procedures established herein for obtaining City consent to assignment or transfer as defined by this Section. In the event such consent is not obtained in the manner prescribed herein, the City shall be entitled to declare a default, cancel this Agreement and resort to its rights and remedies against the defaulting party. Owner shall not assign any interest in this Agreement and will not transfer any interest in the same without the prior written consent of the City, which shall take into consideration any recommendation(s) regarding same by its Loan Review Committee. In the event Owner is a corporation, limited partnership or other incorporated or artificial business entity, a transfer of more than ten percent (10%) Ownership interest of its stock by pledge, sale or otherwise (except a transfer of partnership interests in connection with the syndication of limited partner interests in the Ownership, which shall not require any consent hereunder); or if Owner makes an assignment for the benefit of its creditors or uses this Agreement as security or collateral for any loan; or if Owner is voluntarily or involuntarily a party to any bankruptcy or insolvency proceeding; or if Owner has a receiver appointed over any of its properties; or if Owner does not satisfy in full or appeal any judgment for the sum of \$5,000 (or more) within thirty (30) days from its' rendition; or if Owner is involved in a bulk transfer of its business, then, in that event, each of the foregoing actions will be deemed an assignment of this Agreement and require the prior written consent of the City, which shall take into consideration any recommendation(s) regarding same by its Loan Review Committee.

In the event Owner is a trust, which includes, without limitation, a land trust and a trust company, any change in the person or entity who is the trustee or any change in the heirs or beneficiaries of such trust shall be deemed an assignment under this Section and require the prior written consent of the City, which shall take into consideration any recommendation(s) regarding same by its Loan Review Committee. Regardless of the type of entity Owner is defined to be, a merger, insolvency, bankruptcy, dissolution, consolidation, conversion, liquidation, or appointment of a receiver for such Owner shall each be deemed an assignment of this Agreement and will require the prior written consent of the City upon approval by the Loan Review Committee.

- (15) For purposes of this Agreement, a default shall include, without limitation, the following acts or events of the Owner, or its agents, servants, employees, or contractors:
 - (a) Owner's failure to (i) commence work within thirty (30) days from the date of issuance of the Notice to Proceed by the City; or (ii) diligently pursue construction and timely complete the Project by securing a Final Certificate of Completion within twelve (12) months from the date of this Agreement; or (iii) provide the documentation required to make the final payment of the matching grant, as indicated in the Guidelines, within thirty (30) days from the date of issuance of a Final Certificate of Completion.

Work shall be considered to have commenced and be in active progress when, in the sole opinion and discretion of the City, a full complement of workmen and equipment is present at the site to diligently incorporate materials and equipment into the structure throughout the day on each full working day, weather permitting.

- (b) Owner's failure to comply with applicable building, fire, life safety, housing and zoning laws, rules, regulations and codes.
- (c) Owner's default on any of the terms and conditions of the note, mortgage, or other loan document executed by Owner in favor of a Lender. Notwithstanding the provisions of Paragraphs 17 and 18,

upon a default of a written indebtedness, including without limitation, a note, mortgage, guarantee, and this Agreement, Owner waives notice, presentment and/or demand of default, and the full amount of the Matching Grant payment will become due and payable to the City.

- (d) Owner's insolvency or bankruptcy.
- (e) Owner's failure to maintain the insurance required by the City and/or Lender.
- (f) Owner's failure to correct defects within a reasonable time as defined herein.
- (g) Owner's breach of this Agreement or of the terms and conditions of the Guidelines or applicable laws, rules and regulations pertaining hereto which are referenced by this Agreement.
- (h) Claims of lien not satisfied or bonded-off, in accordance with Florida Statutes, within sixty (60) days from the date of filing of any such lien.
- (i) An assignment or transfer of this Agreement or any interest therein by Owner which does not comply with the procedures set forth herein.
- In the event of a default, the City may, thirty (30) days after mailing to Owner a notice of such default as set forth herein, automatically cancel and terminate this Agreement without liability to any party to this Agreement. If the default is not fully and satisfactorily cured within thirty (30) days of the City mailing notice of such default to Owner, to the full satisfaction of the City, at the expiration of said thirty (30) day period, this Agreement may, at the City's sole option and discretion, be deemed automatically canceled and terminated and the City fully discharged from any and all liabilities, duties and terms arising out of or accruing by virtue of this Agreement and the Project, and all funds paid to the Owner hereunder shall be immediately due and payable to the City.
- In the event of a default, the City shall additionally be entitled to bring any and all legal and/or equitable actions which it deems to be in its best interest in Miami-Dade County, Florida, in order to enforce the City's rights and remedies against the defaulting party. The City shall be entitled to recover all costs of such actions including reasonable attorney's fees to the extent allowed by law. The Owner waives its right to jury trial and its right to bring permissive counterclaims against the City in any such action to the extent allowed by law.
- (18) If the property is occupied at the time the application is submitted the Owner must submit a tenant roll. Additionally, the Owner must submit for each unit: tenant names, lease terms, duration of occupancy, rent currently paid, with an indication as to whether utilities are included, family size, family income, and any other information determined necessary by the NSD to assess the need for temporary relocation. If a property is occupied and temporary relocation of the tenants is required during the rehabilitation or construction, the City will reimburse up to fifty percent (50%) of "eligible" temporary relocation expenses incurred by the property owner in accordance with the budget and plan submitted as part of the application and approved by the City. "Eligible" expenses will be determined in accordance with the provisions of Handbook 1378: Tenant Assistance, Relocation and Real Property Acquisition, issued by HUD, as amended.
- (19) The Owner must pay these expenses directly, or reimburse the tenants for their payments, and document all such expenditures carefully. Upon submittal of a detailed accounting, to the satisfaction of the City, of all such payments or reimbursements made each month for the duration of the project, the City will reimburse the owner up to 50% of those eligible expenses incurred for this purpose. Note: In the event it is found necessary to permanently relocate any tenant, the full cost of such permanent relocation shall be borne by the Owner.

- (20) The Owner agrees to send, or to permit the City or its agent to send, federally required notices to tenants in a timely manner. These notices include, but are not limited to: General Information Notice, Notice of Non-displacement and a Notice of Eligibility. Owner shall make every effort to assure that temporary accommodations provided for tenants are decent, safe and sanitary, and that other living conditions are generally acceptable. The Owner will ensure that there is no increase in out-of-pocket housing expenses to the tenant. Those tenants who were in residence prior rehabilitation, and who received a "Notice of Non-Displacement", who elect to return to the property upon completion of the rehabilitation work are referred to herein as "Returning Tenants". Owner must agree to offer a unit to the Returning Tenants on the following terms, independently of the rent restrictions detailed herein:
 - a. Returning Tenants must be offered the same apartment previously occupied, or a unit comparable in terms of size and amenities to the unit occupied prior to the rehabilitation.
 - b. Returning Tenants must be offered a standard lease for at least a 12 month period at the same rent being charged before the rehabilitation.
 - c. Upon expiration of the initial lease, and annually thereafter, for a period of 42 months following the completion of the rehabilitation work, rent charged the Returning Tenant may be increased in an amount deemed reasonable by the City, and only if the amount of such proposed increase can be justified, based on documented increases in the operating costs of the property.
 - d. Upon expiration of the 42 month period, the rent charged to the Returning Tenant may be adjusted to the HUD Fair Market Rent, as specified in Chapter I, Section iv (h), if applicable, or to market rental rate if the Tenant's income is greater than 80% of the Area Median Income.
- (21) Notices and demands: All notices, demands, correspondence and communications between the City and the Owner shall be deemed sufficiently given under the terms of this Agreement if dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the City:

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139 Attention: City Manager

with copies to:

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139

Housing Manager, Neighborhood Services Department

If to the Owner:

Roberto Datorre, President

MBCDC: 532 Michigan Avenue, LLC

945 Pennsylvania Avenue Miami Beach, Florida 33139

or to such address and to the attention of such other person as the City or the Owner may from time to time designate by written notice to the other.

- (22) It is understood and agreed that the City shall record this Agreement, with the Clerk of the County Court, Miami-Dade County, Florida and shall furnish the Owner with conformed copies of the recorded instrument within sixty (60) days of the recordation of this Agreement.
- (23) The Owner agrees that upon completion of the rehabilitation hereunder, it will undertake an affirmative marketing program in accordance with 24 CFR Part 570.601-2. At a minimum, the Owner must implement an affirmative marketing program that provides information to, and attracts eligible

persons in the housing market area to the available housing receiving assistance from CDBG funds, without regard to race, color, national origin, religion, sex, sexual orientation, handicap, marital status, familial status, or age. The affirmative marketing requirements and procedures adopted by the Owner shall include, but not necessarily be limited to, the following:

- (a) Methods for informing the public and potential tenants about Federal Fair Housing Laws and the applicable affirmative marketing policy;
- (b) Requirements and practices for carrying out the affirmative marketing plan;
- (c) Procedures to be used to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations including, but not limited to: churches, employment centers, community centers, fair housing groups, housing counseling agencies, community development corporations, and the Housing Authority of the City of Miami Beach)
- (d) Records to be kept describing actions taken to affirmatively market units and records to assess the results of these actions, including newspaper clippings of all vacant units advertised, copies of brochures, pamphlets, and articles used in advertising units, lists of community organizations used in disseminating information, records of referrals, and the results of Owners and referrals, and documentation of any other special outreach activities conducted.
- (e) A description of how the City can assess the success of affirmative marketing actions; and
- (f) A certification that states that the Owner agrees to adhere to whatever corrective actions the City requires to be taken where affirmative marketing requirements are not met.
- (g) Owner agrees to post in a visible location within the building a poster provided by the City advising the tenants of the City's participation in the project.

IN WITNESS WHEREOF, the Owner, and the City have caused this Agreement to be executed by their respective duly authorized officers, the day and year first above written. THE PARTIES HERETO STATE THAT THEY HAVE CAREFULLY READ THE FOREGOING AGREEMENT AND THE CITY OF MIAMI BEACH MULTI-FAMILY REHABILITATION PROGRAM GUIDELINES, AND KNOW THE CONTENTS THEREOF AND FULLY REALIZE THEIR MEANING AND SIGN THIS AGREEMENT AS THEIR OWN FREE ACT.

WITNESS:	Owner: MBCDC: 532 Michigan Avenue, LLC.	
	By:	
Signature:	Re	OBERTO DATORRE, PRESIDENT
Print Name:		
Signature:		
Print Name:		
		CITY OF MIAMI BEACH
	Ву:	
	2)	DAVID DERMER, MAYOR
ATTEST:		
ROBERT PARCHER, CITY CLERK		
		APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION
		MANOW 7-203

STATE OF FLORIDA)	
COUNTY OF MIAMI-DAI) SS: DE)	
The foregoing instrument w, of MBC and did/did not take an oath	as acknowledged before me, this day of DC: 532 Michigan Avenue, LLC, who provided	, 2004, by Roberto Datorre, as as identification
		Name: NOTARY PUBLIC, State of Florida Commission N°
My Commission Expires:		
STATE OF FLORIDA COUNTY OF MIAMI-DA)) SS: DE)	
The foregoing instrument w the City of Miami Beach, w	as acknowledged before me, this day of tho is personally known to me, and did not take an	_, 2004, by David Dermer, as Mayor of oath.
		Name: NOTARY PUBLIC, State of Florida Commission N°
My Commission Expires:		

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ATTACHMENT "A"

OTHER FEDERAL REQUIREMENTS

As the City of Miami Beach is providing this funding through federal funds, all parties agree to comply with the following statutes, regulations and executive orders, as they apply. These requirements are incorporated herein by reference.

- 1. Freedom of Information and Privacy Acts
 - Freedom of Information Act (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a).
- 2. Equal Opportunity
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and 24 CFR Part 1;
 - Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601), as amended;
 - Executive Order 11063, as amended by Executive Order 12259;
 - Executive Orders 11246, 11265, 12138 and 12432;
 - Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 170), as amended;
 - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended:
 - The Age Discrimination Act of 1975 (42 U.S.C. 6101);
 - The Fair Housing Amendments Act of 1988.

3. Environmental Review

- The National Environmental Policy Act (42 U.S.C. 4321, et seq);
- The Council on Environmental Quality Regulations (40 CFR Parts 1500-1508);
- Environmental Review Procedures (24 CFR Part 58);
- National Historic Preservation Act of 1966.
- National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973.

4. Lead Based Paint

- Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4801, et seq) as amended through H.C.D. Act of 1992:
- HUD Lead Based Paint Regulations (24 CFR Part 35).

5. Asbestos

- Asbestos Regulations (40 CFR 61, Subpart M);
- U.S. Department of Labor Occupational Health and Safety (OSHA) Asbestos Regulations (29 CFR 191.1101).
- 6. Handicapped Accessibility
 - Architectural Barriers Act of 1968 (42 U.S.C. 4151 and 24 CFR Part 41).
- 7. Labor Standards
 - The Davis-Bacon Act (40 U.S.C. 276a) as amended;
 - The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333);
 - Federal Labor Standards Provisions (29 CFR Part 5.5).
- 8. Community Development Block Grant Regulations (24 CFR Part 570).

ADDITIONALLY, ALL PARTIES AGREE TO COMPLY WITH ALL EXISTING FEDERAL, STATE AND LOCAL LAWS AND ORDINANCES HERETO APPLICABLE, AS AMENDED.

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A resolution authorizing a Multi-Family Housing Rehabilitation Program Matching Grant Agreement with Claude Bardel in the amount of \$60,000 in Community Development Block Grant (CDBG) Program Funds for the rehabilitation of the property located at 1241 Normandy Drive, Miami Beach, to provide three (3) rental units for income-eligible tenants for five years.

Issue:

Shall the City execute a Multi-Family Housing Rehabilitation Program Matching Grant Agreement with Claude Bardel in the amount of \$60,000 in CDBG Program funds for the rehabilitation of the property located at 1241 Normandy Drive, Miami Beach, to provide three (3) rental units for income-eligible tenants for five years.

Item Summary/Recommendation:

Execute the attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement with Claude Bardel in the amount of \$60,000 in Community Development Block Grant (CDBG) Program Funds through the Multi-Family Housing Rehabilitation Program for the rehabilitation of the property located at 1241 Normandy Drive, Miami Beach, to provide three (3) rental units for income-eligible tenants for five years.

Advisory Board Recommendation:

On May 28, 2004, the City's Loan Review Committee (LRC) met and reviewed the application for funding for this property and voted to recommend approval by the Mayor and City Commission. The LRC recommended a Matching Grant of \$60,000 towards the rehabilitation costs for this property.

Financial Information:

Source of	H 145 49	Amount	Account	Approved
Funds:	12.00	\$4,850	130.5110.000346	
CDBG 2 3 4	2	55,150	131.5110.000346	
	3			
Finance Dept.	Total	\$60,000		

City Clerk's Office Legislative Tracking:

VPG

Sign-Offs:

Department Director Assistant City Manager	City Manager
	1) may -

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AGENDA ITEM C7M
DATE 7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MULTI-FAMILY HOUSING REHABILITATION PROGRAM MATCHING GRANT AGREEMENT WITH CLAUDE BARDEL IN THE AMOUNT OF \$60,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS THROUGH THE MULTI-FAMILY HOUSING REHABILITATION PROGRAM FOR THE REHABILITATION OF THE PROPERTY LOCATED AT 1241 NORMANDY DRIVE, MIAMI BEACH, TO PROVIDE THREE (3) RENTAL UNITS FOR

INCOME-ELIGIBLE TENANTS FOR FIVE YEARS.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The City administers the Multi-Family Housing Rehabilitation Program through the Housing Division of the Neighborhood Services Department. Since 1981, the City has provided financial assistance to property owners through this Program resulting in the successful renovation of over 1,250 units of rental housing. The Multi-Family Housing Rehabilitation Program operates with federal funds from the U.S. Department of Housing and Urban Development (HUD) through the Community Development Block Grant (CDBG) Program.

The Program Guidelines, adopted by the Mayor and City Commission on December 10, 2003, require that buildings rehabilitated there under be maintained in rental use for at least five (5) years. The proposed Matching Grant Agreement with the property owner includes stipulations requiring repayment to the City of the full amount of the Grant in case the owner fails to perform the requirements of the Agreement.

1241 Normandy Drive - Funding Recommended: \$60,000

The apartments at 1241 Normandy Drive consist of a two-story building, with four (4) two-bedroom units. The building at 1241 Normandy Drive was built in 1956 as an apartment building. The architecture of the structure is Post War Modern. The building is not considered architecturally significant and is not included in the City's register of historic

July 7, 2004 Commission Memorandum 1241 Normandy Drive Page 2

buildings. The building is a concrete block structure with approximately 4,362 square feet of enclosed space.

The applicant proposes to rehabilitate the building, maintaining the same basic layout, which provides an average of 1090 square feet per living unit. The owner has estimated the cost of rehabilitation to be \$131,000, including labor, material, contingency, architectural and related fees. The scope of work proposed includes the following: roof replacement (2,464 sq. ft), windows and shutter (37), wall air conditioning units (12), Exterior Doors (9), replacement of all electrical systems to meet code, landscaping, exterior painting, interior painting, bathrooms (tub, toilets, faucets and tile), and removal of illegal fence. Per the Miami-Dade County Tax Assessor, the value of the land and building before rehabilitation is approximately \$306,553. Accepting this price as market value, the construction cost estimate of \$131,000 (\$30.04 per square foot) is less than 50% of the market value of the land and building before the rehabilitation.

Under the rules of the Multi-Family Housing Rehabilitation Program, the rent for three (3) of the four (4) apartments (75 percent of the units) in the building will be subject to restrictions mandated by the Program Guidelines. For a period of five (5) years, three (3) units will be rented to tenants earning 80 percent or less of the Area Median Income, currently \$30,850 for a family of two. The rents are to be established in accordance with the CDBG Program Rent schedule as issued by the U.S. HUD for apartments. Currently, the U.S. HUD approved net rent under this schedule is \$815 for a two-bedroom unit.

On May 28, 2004, the City's Loan Review Committee (LRC) met and reviewed the application for funding for this property and voted to recommend approval by the Mayor and City Commission. The LRC recommended a Matching Grant of \$60,000 towards the rehabilitation costs for this property, with the owner providing \$71,000. Under the Program Guidelines, the maximum matching grant that this property can qualify for is \$60,000 (based on: 4 units x \$15,000 for two-bedroom units).

A review of City and County records for the property indicates that there are no unpaid water or sanitation bills, and taxes are paid for the current year. In accordance with the Program Guidelines, the rehabilitation proposed will bring the property into compliance with the City's Property Maintenance Standards.

Currently, the building is fully occupied. All of the tenants meet the income eligibility requirements of the Program Guidelines. The owner does not anticipate any displacement of tenants due to the rehabilitation of the building. If temporary relocation is necessary, the owner intends to provide tenants with comparable hotel accommodations.

The Owner

The owner, Claude Bardel, purchased the subject property in June of 2001. Mr. Bardel owns no other buildings in Miami Beach. Currently, there are code compliance violations which have been identified: exterior surfaces of structure not properly maintained, windows

July 7, 2004 Commission Memorandum 1241 Normandy Drive Page 3

need repair, torn screens, doors in poor working condition, railing deteriorated, and illegal fence. They will be repaired as part of the proposed rehabilitation as noted in the scope of work for the building.

The Administration recommends that the Mayor and City commission adopt the attached resolution authorizing the Mayor and City Clerk to execute the attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement with Claude Bardel in the amount of \$60,000 in Community Development Block Grant (CDBG) Program Funds through the Multi-Family Housing Rehabilitation Program for the rehabilitation of the property located at 1241 Normandy Drive, Miami Beach, to provide three (3) rental units for income-eligible, tenants for five years.

RCM/VPG/JR/MDC/SKC

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RESOL	UTION	NUMBER	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MULTI-FAMILY HOUSING REHABILITATION PROGRAM MATCHING GRANT AGREEMENT WITH CLAUDE BARDEL, IN THE AMOUNT OF \$60,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS THROUGH THE MULTI-FAMILY HOUSING REHABILITATION PROGRAM, FOR THE REHABILITATION OF THE PROPERTY, LOCATED AT 1241 NORMANDY DRIVE, MIAMI BEACH, TO PROVIDE THREE (3) RENTAL UNITS FOR INCOME-ELIGIBLE TENANTS FOR FIVE YEARS.

WHEREAS, the City has established a program to encourage the rehabilitation of existing substandard multi-family buildings using funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the Multi-Family Housing Rehabilitation Program (Program) is administered by the City's Neighborhood Services Department; and

WHEREAS, on December 10, 2003, the Mayor and City Commission approved and adopted revised Guidelines for the Multi-Family Housing Rehabilitation Program; and

WHEREAS, the City has received an application under the Program Guidelines for funding the rehabilitation of an existing building located at 1241 Normandy Drive, which contains four (4) two-bedroom apartment units; and

WHEREAS, the owner of this property, Claude Bardel (Owner), has agreed to offer a minimum of three (3) of the four (4) residential units at reduced rental rates for a minimum of five (5) years as available rental housing; and

WHEREAS, the City's Loan Review Committee, at its May 28, 2004, meeting, recommended that the Mayor and City Commission fund the proposed rehabilitation of 1241 Normandy Drive with a Multi-Family Housing Rehabilitation Matching Grant in the amount of \$60,000, in Community Development Block Grant funds.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk are authorized to execute the attached Mayor and City Clerk to execute the attached Multi-Family Housing Rehabilitation Program Matching Grant Agreement with Claude Bardel, in the amount of \$60,000 in Community Development Block Grant (CDBG) Program Funds through the Multi-Family Housing Rehabilitation Program, for the rehabilitation of the

property, located at 1241 Normandy Drive, Mia for income-eligible tenants for five years.	ami Beach, to provide three (3)	rental units
PASSED AND ADOPTED THIS	DAY OF	, 2004.
ATTEST:		
CITY CLERK T:\AGENDA\2004\Jul0704\Consent\1241 Normandy Drive - Reso.doc	MAYOR	

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION This instrument prepared by: Raul Aguila, First Asst. City Atty. 1700 Convention Center Dr. Miami Beach, FL 33139

MULTI-FAMILY HOUSING REHABILITATION PROGRAM MATCHING GRANT AGREEMENT

THIS AGREEMENT entered into this _____ day of _______, 2004, by and between:

Claude Bardel, whose business address is 7640 Bayhill Drive, Miami, Florida 33015, hereinafter referred to as "Owner"
who is the legal owner of the property at 1241 Normandy Drive, Miami Beach, Florida, 33141 more particularly
described as:

Lot 38 of Block 9, SECOND REVISED PLAT OF PORTIONS OF OCEAN SIDE SECTION AND TROUVILLE SECTION OF ISLE OF NORMANDY, according to the plat thereof recorded in Plat Book 40 at Page 35, of the Public Records of Miami-Dade County, Florida, also known as 1241 Normandy Drive, hereinafter referred to as the "Project",

and the City of Miami Beach, a Florida municipal corporation, having its principal office at 1700 Convention Center Drive, Miami Beach, Florida, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the City has established a Multi-Family Housing Rehabilitation Program, hereinafter referred to as "Program", designed to provide financial assistance to property owners of deteriorated and substandard multi-family residential structures within the City of Miami Beach, Florida, for the purpose of rehabilitating said structures; and

WHEREAS, the policies of said Program are set forth in the City of Miami Beach Multi-Family Housing Rehabilitation Programs Guidelines (Guidelines), amended by the City Commission on December 10, 2003, which are deemed incorporated by reference and made a part of this Agreement; and

WHEREAS, Owner, as the legal Owner of the Project described above, has agreed to rehabilitate said Project in accordance with the Guidelines of the Program; and

WHEREAS, the City's Loan Review Committee on May 28, 2004, recommended approval of assistance to the Project under the Program, and the provision of assistance has been approved by the Mayor and City Commission, subject to certain conditions, including the requirement that the Owner and the City enter into this Agreement; and

WHEREAS, it is acknowledged and agreed between the City and the Owner that funds provided hereunder derive from federal Community Development Block Grant funds appropriated to the City by the U.S. Department of Housing and Urban Development, for the uses and purposes herein referred to, and accordingly it is acknowledged and agreed that this Agreement is entered into after compliance by the parties with all applicable provisions of Federal, State and local laws, statutes, rules and regulations as they may apply to this Agreement, which certain of said regulations are incorporated herein as more fully set forth in Attachment "A".

NOW, THEREFORE, in consideration of the mutual promises contained herein and in consideration of the matching grant monies which are to be paid by City to the Owner, which consideration is hereby acknowledged by the parties, the parties do agree as follows:

- (1) Any amendments, alterations, or variations to this Agreement will only be valid when they have been reduced to writing and duly signed by the parties.
- (2) It is understood and agreed by and between the parties that the Guidelines, as they may be amended from time to time, represent the scope of services and responsibilities of the parties under the Program

and the parties agree to abide by and comply with their roles and responsibilities under the Guidelines as set forth therein.

- (3) City shall have the sole responsibility and obligation of interpreting the intent and purpose of the Program and contract documents.
- (4) Rehabilitation of the Project shall be done in accordance with the applicable codes, ordinances and statutes of the State of Florida, Miami-Dade County, and of the City.
- (\$60,000). This amount is to be used only to cover the cost of rehabilitating the building, as a match for funds paid by the Owner on at least a dollar-for-dollar basis. The structural repairs are to be completed first and any left over money can be used to work on the list of remaining items. The work is to be done in accordance with the application and addendum filed by the Owner with the City, reviewed and recommended by the City's Loan Review Committee on May 28, 2004, and subsequently approved and amended by the Mayor and City Commission.
- (6) It is understood and agreed by and between the parties that none of the obligations of the City assumed or created hereunder shall be general obligations of the City and none of the same shall be enforceable against the City generally. Any and all obligations, liabilities and commitments of the City hereunder, shall be limited to the payment of a Matching Grant amount of Sixty Thousand Dollars (\$60,000), as specified herein. No other fiscal, legal, equitable or contractual duty or obligation is assumed by the City, and the Owner by executing this Agreement so agrees.

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$60,000. Owner hereby expresses its willingness to enter into this Agreement with Owner's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$60,000, less the amount of all funds actually paid by the City to Owner pursuant to this Agreement.

Accordingly, Owner hereby agrees that the City shall not be liable to Owner for damages in an amount in excess of \$60,000, which amount shall be reduced by the amount of the funding actually paid by the City to Owner pursuant to this Agreement, for any action or claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this subparagraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed on the City's liability as set forth in Florida Statutes, Section 768.28.

- (7) The Matching Grant amount shall be paid to the Owner and shall be disbursed during the rehabilitation of the Project. After this Matching Grant payment is made by the City to the Owner and applied by the Owner according to the procedures set forth herein, the City shall be automatically discharged from any and all obligations, liabilities and commitments hereunder to Owner or any third person or entity provided, however, that this Section shall not excuse the continued compliance by Owner with the terms of this Agreement and the federal Program requirements. Owner, for consideration of One Dollar (\$1.00) and other good, valuable, separate and distinct consideration, receipt of which is hereby acknowledged, hereby saves and holds harmless, indemnifies and protects the City, its officers and employees from any and all obligations, liabilities, commitments, actions, claims, causes of action, suits or demands arising or accruing by virtue of this Agreement or the Project contemplated hereunder.
- (8) The following procedures must be followed, prior to the commencement of work on this Project:
 - a) Owner must submit a written request to the City's Housing and Community Development Division of the Neighborhood Services Department ("NSD") for a Pre-Construction Conference, which must be

attended by all contractors and subcontractors. This request must include the names and addresses of the proposed contractors and sub-contractors, including the names of the principal owners of corporate entities, and an indication whether each of the contractor's portion of the total project value will exceed \$10,000. This process requires at least ten (10) days advance notification.

- b) Each contractor and/or subcontractor must be found to be eligible to work on a federally funded project. The names submitted will be checked against the "Consolidated List of Debarred, Suspended & Ineligible Contractors and Grantees" monthly listing published by the Federal Government.
- c) If the building is more than 50 years old, Owner's Architect or Engineer must obtain and submit to the City a letter indicating that the plans for the Project have been reviewed by the State Historic Preservation Officer (SHPO) and that the proposed rehabilitation is acceptable to that Office.
- d) A set of final approved plans and specifications for the Project, approved by the City's Building Department, must be submitted to the Housing and Community Development Division of the NSD.
- e) Building permits must be obtained as required by applicable City Ordinance. Also, any other necessary permits and applicable approvals from any other governmental authorities must be obtained, if required.
- f) A copy of the contract between the Owner and a licensed General Contractor must be submitted to the City, which includes commencement and completion dates, contract amount, scope of work, Federal Labor Standards Provisions (HUD Form 4010), and applicable federal regulations and standards.
- g) The contractor selected must submit evidence prior to the commencement of work, satisfactory to the City's Insurance Manager, of the following insurance coverage: 1) Liability insurance against claims arising out of accident or occurrence on the property, in a minimum amount of \$1,000,000, with the City of Miami Beach named as additional insured in the policy; and 2) Proof of worker's compensation coverage; and 3) such other forms of insurance as the City's Risk Manager may reasonably require.
- h) A revised cost breakdown, to include direct and indirect costs of the proposed work, based on the actual contract price.
- i) The Owner must provide a Lien Statement from the City's Finance Department demonstrating that it is current with the legal and financial obligations and/or payments on the Project, and the property herein, with the City.

When the above requirements have been met, the Housing and Community Development Division of the NSD and the Building Services Division will jointly issue a "Notice to Proceed" on the Project. If the Owner or contractor does not fully comply, or if any work commences prior to the issuance of the Notice to Proceed, then such work may, at the discretion of the City, not be reimbursed under the Program, and could constitute a default under this Agreement.

<u>Exception:</u> Subject to the prior approval of the Housing and Community Development Division of the NSD and the Building Services Division, emergency repairs can be undertaken on the Project.

(9) In consideration for the performance of Owner of its role and responsibilities set forth in this Agreement, the City agrees to pay to Owner, the sum of Sixty Thousand Dollars (\$60,000), as the total of the Matching Grant described herein. Said total shall be disbursed by the City to the Owner during construction as follows: During the construction phase, and not more often than once a month, a payment may be requested equivalent to ninety percent (90%) of the pro-rata portion of the value of the work completed in the previous period, as certified by the Owner's Architect or Engineer, and

confirmed by the Housing and Community Development Division of the City's Neighborhood Services Department. The City's payments hereunder will be computed based on the ratio of the matching grant amount to the total estimated construction cost. In the event the actual cost is less than the estimate, the amount of the City's Matching Grant will be reduced proportionately, so that the City's portion of the total cost is never higher than 50% of the total cost. The final ten percent (10%) of the matching grant payment shall be paid following the completion, approval and acceptance of the rehabilitation work and related documentation by all the governmental agencies and authorities having jurisdiction over the Project, including compliance with the requirements of the Davis Bacon Act, if applicable, and as set forth in the Guidelines.

- (10) Owner agrees to comply with the following requirements during and after construction begins:

 a) The Owner must announce and publicize the source of the public funds provided for the Project. A construction sign must be displayed on the site during the construction phase, with the design and location to be approved by the City. The sign, to be provided and paid for by the Owner, must be maintained for the duration of the construction work. The City will provide detailed information on the dimensions and appearance of the sign.
 - b) The Owner's General Contractor shall be responsible for compliance with all pollution and asbestos control standards of the concerned governmental agencies. It shall be the Contractor's responsibility to obtain required inspections from these agencies.
 - c) On September 15, 1999, the "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule" was published within title 24 of the Code of Federal Regulations as part 35 (24 CFR 35). The regulation was issued under sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X (ten) of the Housing and Community Development Act of 1992. Sections 1012 and 1013 of Title X amended the Lead-Based Paint Poisoning Prevention Act of 1971, which is the basic law covering lead-based paint in federally associated housing.

The regulation sets hazard reduction requirements that give much greater emphasis to reducing lead in house dust. Scientific research has found that exposure to lead in dust is the most common way young children become lead poisoned. Therefore, the new regulation requires dust testing after paint is disturbed to make sure the home is lead-safe. Specific requirements depend on whether the housing is being disposed of or assisted by the federal government, and also on the type and amount of financial assistance, the age of the structure, and whether the dwelling is rental or owner occupied.

PROPERTY EXEMPT FROM LEAD-BASED PAINT REGULATION.

- Housing built since January 1, 1978, when lead paint was banned for residential use
- Housing exclusively for the elderly or people with disabilities, unless a child under age 6 is expected to reside there
- Zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing, dormitories or military barracks
- Property that has been found to be free of lead-based paint by a certified lead-based paint inspector
- Property where all lead-based paint has been removed
- Unoccupied housing that will remain vacant until demolished
- Non-Residential property
- Any rehabilitation or housing improvement that does not disturb a painted surface

TYPES OF HOUSING SUBJECT TO 24 CFR 35

Federally-Owned housing being sold

- Housing receiving a federal subsidy that is associated with the property, rather than with the occupants (project-based assistance)
- Public housing
- Housing occupied by a family (with a child) receiving tenant-based subsidy (such as a voucher or certificate)
- Multifamily housing for which mortgage insurance is being sought
- Housing receiving federal assistance for rehabilitation, reducing homelessness, and other special needs

If you want copies of the regulation or have general questions, you can call the National Lead Information Center at (800) 424-LEAD, or TDD (800) 526-5456 for the hearing impaired. You can also download the regulation and other educational materials at www.hud.gov/lea. For further information, you may call HUD at (202) 755-1785, ext. 104, or e-mail HUD at lead-regulations@hud.gov.

- d) After the Project, and the property herein, has been rehabilitated, it must conform to the applicable codes, ordinances and statutes of the City and of Miami-Dade County, including, but not limited to, the South Florida Building Code, the Zoning Ordinance, and the Property Maintenance Standards.
- (11) It is understood and agreed by Owner that for at least five (5) years beginning on the date of issuance of a final Certificate of Completion, a minimum of ten (10) apartment units (56%) will be occupied by low and moderate income households at affordable rents. Low and moderate income households means the combined income of all members of the household does not exceed 80% of the Area Median Income, as published by HUD. All tenants must be offered a written lease. A "Household Income Certification Report" will have to be completed for every rental unit claimed as meeting the above requirements at least annually. This report must be submitted to the Housing and Community Development Division within ten (10) days after the commencement of each lease, and an updated form must be submitted at least annually thereafter during the month of August, for the fiscal year ended September 30.

The following income limits apply as of this date, but may be revised annually:

1 person	\$27,000
2 persons	\$30,850
3 persons	\$34,700
4 persons	\$38,550

Monthly rents for units occupied by low and moderate income households are considered affordable if they do not exceed the "40th Percentile Fair Market Rents for Existing Housing", published by HUD, as of this date, but subject to revision annually. Currently the rent for an efficiency apartment is \$570, including a utility allowance of \$60 per month, for a net rent of \$510 per month excluding utilities; a one bedroom apartment is \$717, including a utility allowance of \$67 per month, for a net rent of \$650 per month excluding utilities; and the rent for a two-bedroom apartment is \$894 per month, which includes a \$79 per month utility allowance, for a net of \$815 per month.

- (12) It is understood by Owner that if the Project is converted to condominiums, sold, or withdrawn from rental use within five (5) years after the Final Certificate of Completion is issued, the full amount of the Matching Grant payment will become immediately due and payable to the City.
- Owner shall deliver to the Housing and Community Development Division of the NSD, by August 30th of each calendar year, its signed notarized report in form and substance acceptable to the City, which includes the names of tenants, unit type, family income, rents charged, and occupancy factor of each unit for the prior year. This report will continue to be required through the August 30th following the expiration of the five (5) year period after the date of issuance of a Final Certificate of Completion.

It shall be deemed a default of this Agreement if Owner does not strictly comply with the terms, (14)conditions, duties and procedures established herein for obtaining City consent to assignment or transfer as defined by this Section. In the event such consent is not obtained in the manner prescribed herein, the City shall be entitled to declare a default, cancel this Agreement and resort to its rights and remedies against the defaulting party. Owner shall not assign any interest in this Agreement and will not transfer any interest in the same without the prior written consent of the City, which shall take into consideration any recommendation(s) regarding same by its Loan Review Committee. In the event Owner is a corporation, limited partnership or other incorporated or artificial business entity, a transfer of more than ten percent (10%) Ownership interest of its stock by pledge, sale or otherwise (except a transfer of partnership interests in connection with the syndication of limited partner interests in the Ownership, which shall not require any consent hereunder); or if Owner makes an assignment for the benefit of its creditors or uses this Agreement as security or collateral for any loan; or if Owner is voluntarily or involuntarily a party to any bankruptcy or insolvency proceeding; or if Owner has a receiver appointed over any of its properties; or if Owner does not satisfy in full or appeal any judgment for the sum of \$5,000 (or more) within thirty (30) days from its' rendition; or if Owner is involved in a bulk transfer of its business, then, in that event, each of the foregoing actions will be deemed an assignment of this Agreement and require the prior written consent of the City, which shall take into consideration any recommendation(s) regarding same by its Loan Review Committee.

In the event Owner is a trust, which includes, without limitation, a land trust and a trust company, any change in the person or entity who is the trustee or any change in the heirs or beneficiaries of such trust shall be deemed an assignment under this Section and require the prior written consent of the City, which shall take into consideration any recommendation(s) regarding same by its Loan Review Committee. Regardless of the type of entity Owner is defined to be, a merger, insolvency, bankruptcy, dissolution, consolidation, conversion, liquidation, or appointment of a receiver for such Owner shall each be deemed an assignment of this Agreement and will require the prior written consent of the City upon approval by the Loan Review Committee.

- (15) For purposes of this Agreement, a default shall include, without limitation, the following acts or events of the Owner, or its agents, servants, employees, or contractors:
 - (a) Owner's failure to (I) commence work within thirty (30) days from the date of issuance of the Notice to Proceed by the City; or (ii) diligently pursue construction and timely complete the Project by securing a Final Certificate of Completion within twelve (12) months from the date of this Agreement; or (iii) provide the documentation required to make the final payment of the matching grant, as indicated in the Guidelines, within thirty (30) days from the date of issuance of a Final Certificate of Completion.

Work shall be considered to have commenced and be in active progress when, in the sole opinion and discretion of the City, a full complement of workmen and equipment is present at the site to diligently incorporate materials and equipment into the structure throughout the day on each full working day, weather permitting.

- (b) Owner's failure to comply with applicable building, fire, life safety, housing and zoning laws, rules, regulations and codes.
- (c) Owner's default on any of the terms and conditions of the note, mortgage, or other loan document executed by Owner in favor of a Lender. Notwithstanding the provisions of Paragraphs 17 and 18, upon a default of a written indebtedness, including without limitation, a note, mortgage, guarantee, and this Agreement, Owner waives notice, presentment and/or demand of default, and the full amount of the Matching Grant payment will become due and payable to the City.
- (d) Owner's insolvency or bankruptcy.

- (e) Owner's failure to maintain the insurance required by the City and/or Lender.
- (f) Owner's failure to correct defects within a reasonable time as defined herein.
- (g) Owner's breach of this Agreement or of the terms and conditions of the Guidelines or applicable laws, rules and regulations pertaining hereto which are referenced by this Agreement.
- (h) Claims of lien not satisfied or bonded-off, in accordance with Florida Statutes, within sixty (60) days from the date of filing of any such lien.
- (i) An assignment or transfer of this Agreement or any interest therein by Owner which does not comply with the procedures set forth herein.
- In the event of a default, the City may, thirty (30) days after mailing to Owner a notice of such default as set forth herein, automatically cancel and terminate this Agreement without liability to any party to this Agreement. If the default is not fully and satisfactorily cured within thirty (30) days of the City mailing notice of such default to Owner, to the full satisfaction of the City, at the expiration of said thirty (30) day period, this Agreement may, at the City's sole option and discretion, be deemed automatically canceled and terminated and the City fully discharged from any and all liabilities, duties and terms arising out of or accruing by virtue of this Agreement and the Project, and all funds paid to the Owner hereunder shall be immediately due and payable to the City.
- (17) In the event of a default, the City shall additionally be entitled to bring any and all legal and/or equitable actions which it deems to be in its best interest in Miami-Dade County, Florida, in order to enforce the City's rights and remedies against the defaulting party. The City shall be entitled to recover all costs of such actions including reasonable attorney's fees to the extent allowed by law. The Owner waives its right to jury trial and its right to bring permissive counterclaims against the City in any such action to the extent allowed by law.
- (18) If the property is occupied at the time the application is submitted the Owner must submit a tenant roll. Additionally, the Owner must submit for each unit: tenant names, lease terms, duration of occupancy, rent currently paid, with an indication as to whether utilities are included, family size, family income, and any other information determined necessary by the NSD to assess the need for temporary relocation. If a property is occupied and temporary relocation of the tenants is required during the rehabilitation or construction, the City will reimburse up to fifty percent (50%) of "eligible" temporary relocation expenses incurred by the property owner in accordance with the budget and plan submitted as part of the application and approved by the City. "Eligible" expenses will be determined in accordance with the provisions of Handbook 1378: Tenant Assistance, Relocation and Real Property Acquisition, issued by HUD, as amended.
- (19) The Owner must pay these expenses directly, or reimburse the tenants for their payments, and document all such expenditures carefully. Upon submittal of a detailed accounting, to the satisfaction of the City, of all such payments or reimbursements made each month for the duration of the project, the City will reimburse the owner up to 50% of those eligible expenses incurred for this purpose.

 Note: In the event it is found necessary to permanently relocate any tenant, the full cost of such permanent relocation shall be borne by the Owner.
- (20) The Owner agrees to send, or to permit the City or its agent to send, federally required notices to tenants in a timely manner. These notices include, but are not limited to: General Information Notice, Notice of Non-displacement and a Notice of Eligibility. Owner shall make every effort to assure that temporary accommodations provided for tenants are decent, safe and sanitary, and that other living conditions are generally acceptable. The Owner will ensure that there is no increase in out-of-pocket housing expenses to the tenant. Those tenants who were in residence prior rehabilitation, and who

received a "Notice of Non-Displacement", who elect to return to the property upon completion of the rehabilitation work are referred to herein as "Returning Tenants". Owner must agree to offer a unit to the Returning Tenants on the following terms, independently of the rent restrictions detailed herein:

- a. Returning Tenants must be offered the same apartment previously occupied, or a unit comparable in terms of size and amenities to the unit occupied prior to the rehabilitation.
- b. Returning Tenants must be offered a standard lease for at least a 12 month period at the same rent being charged before the rehabilitation.
- c. Upon expiration of the initial lease, and annually thereafter, for a period of 42 months following the completion of the rehabilitation work, rent charged the Returning Tenant may be increased in an amount deemed reasonable by the City, and only if the amount of such proposed increase can be justified, based on documented increases in the operating costs of the property.
- d. Upon expiration of the 42 month period, the rent charged to the Returning Tenant may be adjusted to the HUD Fair Market Rent, as specified in Chapter I, Section iv (h), if applicable, or to market rental rate if the Tenant's income is greater than 80% of the Area Median Income.
- Notices and demands: All notices, demands, correspondence and communications between the City and the Owner shall be deemed sufficiently given under the terms of this Agreement if dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to the City:

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139 Attention: City Manager

with copies to:

City of Miami Beach

1700 Convention Center Drive Miami Beach, Florida 33139 Attention: Housing Manager

Neighborhood Services Department

If to the Owner:

Claude Bardel 7460 Bayhill Drive Miami, Florida 33015

or to such address and to the attention of such other person as the City or the Owner may from time to time designate by written notice to the other.

- (22) It is understood and agreed that the City shall record this Agreement, with the Clerk of the County Court, Miami-Dade County, Florida and shall furnish the Owner with conformed copies of the recorded instrument within sixty (60) days of the recordation of this Agreement.
- (23) The Owner agrees that upon completion of the rehabilitation hereunder, it will undertake an affirmative marketing program in accordance with 24 CFR Part 570.601-2. At a minimum, the Owner must implement an affirmative marketing program that provides information to, and attracts eligible persons in the housing market area to the available housing receiving assistance from CDBG funds, without regard to race, color, national origin, religion, sex, sexual orientation, handicap, marital status, familial status, or age. The affirmative marketing requirements and procedures adopted by the Owner shall include, but not necessarily be limited to, the following:

- (a) Methods for informing the public and potential tenants about Federal Fair Housing Laws and the applicable affirmative marketing policy;
- (b) Requirements and practices for carrying out the affirmative marketing plan;
- (c) Procedures to be used to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach (e.g., use of community organizations including, but not limited to: churches, employment centers, community centers, fair housing groups, housing counseling agencies, community development corporations, and the Housing Authority of the City of Miami Beach)
- (d) Records to be kept describing actions taken to affirmatively market units and records to assess the results of these actions, including newspaper clippings of all vacant units advertised, copies of brochures, pamphlets, and articles used in advertising units, lists of community organizations used in disseminating information, records of referrals, and the results of Owners and referrals, and documentation of any other special outreach activities conducted.
- (e) A description of how the City can assess the success of affirmative marketing actions; and
- (f) A certification that states that the Owner agrees to adhere to whatever corrective actions the City requires to be taken where affirmative marketing requirements are not met.
- (g) Owner agrees to post in a visible location within the building a poster provided by the City advising the tenants of the City's participation in the project.

IN WITNESS WHEREOF, the Owner, and the City have caused this Agreement to be executed by their respective duly authorized officers, the day and year first above written. THE PARTIES HERETO STATE THAT THEY HAVE CAREFULLY READ THE FOREGOING AGREEMENT AND THE CITY OF MIAMI BEACH MULTI-FAMILY REHABILITATION PROGRAM GUIDELINES, AND KNOW THE CONTENTS THEREOF AND FULLY REALIZE THEIR MEANING AND SIGN THIS AGREEMENT AS THEIR OWN FREE ACT.

WITNESS:		Owner: Claude Bardel.
	_	
Signature:	Ву:	CLAUDE BARDEL
Print Name:		
Signature:		
Print Name:		
		CITY OF MIAMI BEACH
	Ву:	DAVID DERMER, MAYOR
ATTEST:		
ROBERT PARCHER, CITY CLERK		

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

Date

STATE OF FLORIDA)			
) SS COUNTY OF MIAMI-DADE)	: -		
The foregoing instrument was ackn	nowledged before me, this rmandy Drive, who provided	day of	, 2004, by Claude Bardel, as as identification and did/did
not take an oath.			
			Name: NOTARY PUBLIC, State of Florida Commission N°
My Commission Expires:			
STATE OF FLORIDA)) SS COUNTY OF MIAMI-DADE)			
The foregoing instrument was acknown the City of Miami Beach, who is p			2004, by David Dermer, as Mayor of th.
			Name: NOTARY PUBLIC, State of Florida Commission N°
My Commission Expires:			
T:\AGENDA\2004\Jul0704\Consent\1241 Normandy Dri	ve - Agreement.doc		

ATTACHMENT "A"

OTHER FEDERAL REQUIREMENTS

As the City of Miami Beach is providing this funding through federal funds, all parties agree to comply with the following statutes, regulations and executive orders, as they apply. These requirements are incorporated herein by reference.

- 1. Freedom of Information and Privacy Acts
 - Freedom of Information Act (5 U.S.C. 552), and the Privacy Act of 1974 (5 U.S.C. 552a).
- 2. Equal Opportunity
 - Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and 24 CFR Part 1;
 - Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601), as amended;
 - Executive Order 11063, as amended by Executive Order 12259;
 - Executive Orders 11246, 11265, 12138 and 12432;
 - Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 170), as amended;
 - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended;
 - The Age Discrimination Act of 1975 (42 U.S.C. 6101);
 - The Fair Housing Amendments Act of 1988.
- 3. Environmental Review
 - The National Environmental Policy Act (42 U.S.C. 4321, et seq);
 - The Council on Environmental Quality Regulations (40 CFR Parts 1500-1508);
 - Environmental Review Procedures (24 CFR Part 58);
 - National Historic Preservation Act of 1966.
 - National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973.
- 4. Lead Based Paint
 - Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4801, et seq) as amended through H.C.D. Act of 1992;
 - HUD Lead Based Paint Regulations (24 CFR Part 35).
- 5. Asbestos
 - Asbestos Regulations (40 CFR 61, Subpart M);
 - U.S. Department of Labor Occupational Health and Safety (OSHA) Asbestos Regulations (29 CFR 191.1101).
- 6. Handicapped Accessibility
 - Architectural Barriers Act of 1968 (42 U.S.C. 4151 and 24 CFR Part 41).
- 7. Labor Standards
 - The Davis-Bacon Act (40 U.S.C. 276a) as amended;
 - The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333);
 - Federal Labor Standards Provisions (29 CFR Part 5.5).
- 8. Community Development Block Grant Regulations (24 CFR Part 570).

ADDITIONALLY, ALL PARTIES AGREE TO COMPLY WITH ALL EXISTING FEDERAL, STATE AND LOCAL LAWS AND ORDINANCES HERETO APPLICABLE, AS AMENDED.

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A resolution to provide \$205,632 in HOME program funds from fiscal year 2003/04 previously allocated to MBCDC towards the acquisition and rehabilitation of the property located at 530 Michigan Avenue to provide nine (9) rental units for income-eligible elderly tenants in accordance with the HOME program requirements.

Issue:

Shall the City provide \$205,632 in HOME program funds from fiscal year 2003/04 previously allocated to MBCDC towards the acquisition and rehabilitation of the property located at 530 Michigan Avenue to provide nine (9) rental units for income-eligible elderly tenants in accordance with the HOME program requirements?

Item Summary/Recommendation:

On July 30, 2003, the City allocated \$800,000 of HOME Program funds to be used by MBCDC towards the production of affordable housing within the City. MBCDC has requested \$205,632 of the HOME funds to be used towards the acquisition and rehabilitation of the apartment building located at 530 Michigan Avenue to provide 9 units for income-eligible elderly tenants.

Advisory Board Recommendation:

On May 28, 2004, the Loan Review Committee recommended that the Commission approve the request from MBCDC for the utilization of \$205,632 of HOME Program funds to provide nine rental units for income-eligible tenants in the apartment building at 530 Michigan Avenue to be utilized towards the acquisition and rehabilitation of the property.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1	\$205,632	151.5232.000349	
HOME	2			
	3			
	4			
Finance Dept.	Total			

ity Clerk's Office Legislative Tracking:
/PG

Sign-Offs:

Department Director	Assistant City Manager	City Manager
MINIMANANA		June
		7-0

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A SECOND AMENDMENT TO THE HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT, DATED FEBRUARY 20, 2002, BETWEEN THE CITY AND MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC), PROVIDING \$205,632 IN HOME PROGRAM FUNDS FROM FISCAL YEAR 2003/04 PREVIOUSLY ALLOCATED TO MBCDC TOWARDS THE ACQUISITION AND REHABILITATION OF THE PROPERTY LOCATED AT 530 MICHIGAN AVENUE TO PROVIDE NINE (9) RENTAL UNITS FOR INCOME-ELIGIBLE ELDERLY TENANTS IN ACCORDANCE WITH THE

HOME PROGRAM REQUIREMENTS.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The City has received an annual allocation of Home Investment Partnerships (HOME) Program funds from the U.S. Department of Housing and Urban Development (U.S. HUD) since 1992 for the purpose of expanding the supply of housing for persons meeting the income criteria of the HOME Program. This Program encourages partnerships between the government and the private sector, including for-profit and not-for-profit organizations for the acquisition, construction and rehabilitation of housing.

On July 30, 2003, the City approved Resolution No. 2003-25304 and in the One Year Action Plan for Fiscal Year 2003/04 allocated \$800,000 of HOME funds to be used by Miami Beach Community Development Corporation (MBCDC) towards the production of affordable housing within the City.

On May 28, 2004, the City's Loan Review Committee (LRC) recommended funding for an application from MBCDC for the requested amount of \$205,632 to be utilized toward the acquisition and rehabilitation of the apartment building located at 530 Michigan Avenue, Miami Beach, to provide nine (9) rental units for income-eligible elderly tenants.

MBCDC acquired the two-story, nine (9) unit apartment building at 530 Michigan Avenue on August 23, 2001. At that time, MBCDC also acquired the building at 532 Michigan Avenue from the same owner. MBCDC intends to operate the building to provide housing for the elderly. MBCDC holds title to both properties under MBCDC: 532 Michigan Avenue, LLC., a not-for-profit entity created by MBCDC.

The property at 530 Michigan Avenue is a two-story concrete and masonry structure consisting of three studio apartments and six one-bedroom apartments. The structure was built in 1972 and contains approximately 5,948 square feet. All units have or exceed the minimum 400 square feet as required by Code.

All items included in the original scope of work have been completed. These included the following: install new roof, replace wall mounted A/C units with a central H.V.A.C. system, replace all plumbing fixtures and replace all damaged pipes and drains, pressure wash and paint exterior of the building, make necessary repairs to electrical system to assure that the buildings comply with the City's adopted Code, install new cabinets in kitchens and install new vanity tops in the bathrooms, replace the kitchen appliances, re-landscape entry, and provide security features as necessary. In addition to these items, once the project began MDCDC also had to perform the following Code required items: new egress windows, fire stopping, make one unit accessible and perform assessable site work. So as not to interrupt the project, MBCDC funded the additional items with their own funds. The entire project has now been completed. All nine (9) units are occupied and MBCDC will provide these rental units for income-eligible tenants for a minimum of 15 years.

The project was completed at a cost of \$1,378,320. MBCDC currently has secured \$1,138,358 in permanent financing and \$34,330 in rental income toward the project cost. The \$205,632 will be used to reimburse MBCDC for the equity they advanced to the project while the building was under renovation.

The Administration recommends that the Mayor and City Commission authorize the Mayor and City Clerk to execute the attached Home Investment Partnerships (HOME) Program Agreement with MBCDC: 532 Michigan Avenue, LLC. providing a total of \$205,632 in HOME Program 2003/04 CHDO set-aside funds, towards the cost of the acquisition and rehabilitation of the apartment building located at 530 Michigan Avenue, Miami Beach, to provide nine (9) rental units for income-eligible elderly tenants in accordance with the HOME Program requirements.

JMG/RCM/VPG/JR/MDC/HKM
T:\AGENDA\2004\Jui0704\Consent\530 MICHIGAN AVE MEMO.doc

RESOL	UTION	NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED SECOND AMENDMENT TO HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM AGREEMENT WITH MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION (MBCDC) PROVIDING A TOTAL OF \$205,632 IN HOME PROGRAM FUNDS FROM FISCAL YEAR 2003/04, PREVIOUSLY ALLOCATED TO MBCDC TOWARD THE COST OF THE ACQUISITION AND REHABILITATION OF THE APARTMENT BUILDING LOCATED AT 530 MICHIGAN AVENUE, MIAMI BEACH, TO PROVIDE NINE (9) RENTAL UNITS FOR INCOME-ELIGIBLE ELDERLY TENANTS, IN ACCORDANCE WITH THE HOME PROGRAM REQUIREMENTS.

WHEREAS, the City has established a HOME Investment Partnerships (HOME) Program under the rules of the U.S. Department of Housing and Urban Development (HUD), which provides financial assistance for the purpose of providing affordable housing within the City; and

WHEREAS, the City has determined the necessity for providing affordable housing in the City through its Consolidated Plan and its One-Year Action Plan for Federal Funds for Fiscal Year 2000/2001, adopted by Resolution No. 2003-25304 on July 30, 2003; and

WHEREAS, on July 30, 2003, the City approved Resolution No. 2003-25304 and in the One Year Action Plan for Fiscal Year 2003/04 allocated \$800,000 of HOME funds to be used by Miami Beach Community Development Corporation (MBCDC) toward the production of affordable housing within the City; and

WHEREAS, on February 20, 2002, the City approved Resolution No. 2002-24749 authorizing a HOME Program Agreement between the City and MBCDC providing \$333,300 of funds from a HOME Program Notice of Funding Availability (NOFA) towards the acquisition and rehabilitation of a nine (9) unit apartment building at 530 Michigan Avenue, to provide rental housing for income-eligible elderly tenants in accordance with the HOME Program requirements; and

WHEREAS, on July 31, 2002, the City approved Resolution No. 2002-23935 authorizing a First Amendment to the HOME Program Agreement between the City and MBCDC providing \$170,538 of funds from a HOME Program Notice of Funding Availability (NOFA) towards the acquisition and rehabilitation of the nine (9) unit apartment building at 530 Michigan Avenue; and

WHEREAS, the City's Loan Review Committee (LRC), at its May 28, 2004 meeting, recommended funding for an application from MBCDC for the requested amount of \$205,632, to be utilized toward the acquisition and rehabilitation of the apartment building located at 530 Michigan Avenue, Miami Beach, to provide nine rental units for incomeeligible elderly tenants.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk are hereby authorized to execute the attached Second Amendment to HOME Investment Partnerships (HOME) Program Agreement with Miami Beach Community Development Corporation (MBCDC), providing a total of \$205,632 in HOME Program funds from Fiscal Year 2003/04, previously allocated to MBCDC towards the acquisition and rehabilitation of the apartment building located at 530 Michigan Avenue, Miami Beach, to provide nine (9) rental units for income-eligible elderly tenants in accordance with the HOME Program requirements.

PASSED AND ADOPTED	THIS DAY OF	, 2004
ATTEST:		
CITY CLERK	MAYOR	

530 MICHIGAN AVE RESO.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

ty Attorney Date

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution authorizing the Mayor and City Clerk to execute the second and final annual renewal of the Memorandum Of Agreement (MOA) with the Florida Department of Transportation for the turf and landscape maintenance services on I-195 (Julia Tuttle Causeway) for the period of September 1, 2004 to August 31, 2005. The City will receive \$150,000 from the FDOT for the cost of the services.

Issue:

Shall the City the enter into the second and final renewal of the current Memorandum Of Agreement (MOA) with the Florida Department of Transportation to continue the turf and landscape maintenance for I-195 (Julia Tuttle Causeway) and receive \$150,000 from the FDOT for these services?

Item Summary/Recommendation:

In July of 1994 the City Commission approved the initial Memorandum of Agreement with the Florida Department of Transportation (FDOT) to provide for maintenance of landscaping along the Julia Tuttle Causeway, specifically from the east end of the westernmost bridge to Alton Road. This Agreement has been renewed annually since that time.

The Memorandum of Agreement currently in effect was initiated in August of 2000. The first renewal of this Agreement for the Julia Tuttle Causeway expires on August 31, 2004 and this second and final renewal will begin on September 1, 2004 and conclude on August 31, 2005.

To ensure the Julia Tuttle Causeway landscaping continues to be maintained at the high standards set by the City of Miami Beach, and to receive the annual funding of \$150,000 from the Florida Department of Transportation that is necessary to support these maintenance standards, the Administration recommends the attached resolution authorizing the Mayor and City Clerk to execute the attached Memorandum of Agreement renewal for 2004/2005 be approved.

Advisorv	Board	Recomm	endation [.]
AUVISOIV	Duaru	Recomm	enuauon.

N/A

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Kevin Smith

Sign-Offs:

Department Director	Assistant City Manager	City Manager
X	RCM	JMG (Max
T:\AGENDA\2004\Jul0704\Consent\7 7 0	4 FDOT J. Tuttle MOA Summary Cover sheet	1.DOC

AGENDA ITEM <u>C70</u>

DATE <u>7-7-04</u>

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SECOND AND FINAL ANNUAL RENEWAL OF THE CURRENT MEMORANDUM OF AGREEMENT (MOA), WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE TURF AND LANDSCAPE MAINTENANCE SERVICES ON I-195 (JULIA TUTTLE CAUSEWAY) FROM THE EAST SIDE OF THE INTRACOASTAL BRIDGE TO ALTON ROAD AT THE ANNUAL COST OF \$150,000 TO BE PAID TO THE CITY OF MIAMI BEACH BY THE FLORIDA DEPARTMENT OF RENEWAL SHALL COMMENCE ON TRANSPORTATION. SAID SEPTEMBER 1, 2004, AND CONCLUDING ON AUGUST 31, 2005 WITH ALL TERMS AND CONDITIONS REMAINING AS STIPULATED IN THE MEMORANDUM OF AGREEMENT ENTERED INTO IN AUGUST OF 2000.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

In July of 1994 the City Commission approved the initial Memorandum of Agreement with the Florida Department of Transportation (FDOT) to provide for maintenance of landscaping along the Julia Tuttle Causeway, specifically from the east end of the westernmost bridge to Alton Road. This Agreement has been renewed annually since that time.

For the past several years, the City has utilized the services of a private landscape maintenance company to provide the required work within the limits covered under this Agreement. The annual compensation from FDOT of \$150,000 pays for the services of the landscape maintenance contractor and plant material replacement. The Parks and Recreation Department's Parks Division has a Superintendent who serves as a Contract Administrator to monitor the work of the contractor on a regular basis to ensure specifications are complied with and the landscape materials are properly maintained. Any deviations from the contract are noted in writing and followed through to a satisfactory resolution.

City Commission Memorandum July 7, 2004 FDOT Julia Tuttle MOA Renewal II Page 2

The Memorandum of Agreement currently in effect was initiated in August of 2000. The first renewal of this Agreement for the Julia Tuttle Causeway expires on August 31, 2004 and this second and final renewal will begin on September 1, 2004 and conclude on August 31, 2005.

As a point of information, please be advised that work will begin soon to selectively trim and remove exotic plants and install additional plant materials to infill the project. Additionally, the comprehensive scope of services for the landscape maintenance for the Julia Tuttle Causeway is currently out for re-bid along with the MacArthur Causeway maintenance program. It is anticipated bids will be returned for evaluation in early August.

To ensure the Julia Tuttle Causeway landscaping continues to be maintained at the high standards set by the City of Miami Beach, and to receive the annual funding of \$150,000 from the Florida Department of Transportation that is necessary to support these maintenance standards, the Administration recommends the attached resolution authorizing the Mayor and City Clerk to execute the attached Memorandum of Agreement renewal for 2004/2005 be approved.

JMG/RCM/KS/JAO

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Florida Department of Transportation

JEB BUSH GOVERNOR District Six • Maintenance Office 1000 Northwest 111th Avenue, Room 6214 Miami, Florida 33172 5800 JOSE ABREU SECRETARY

May 6, 2004

Mr. Kevin Smith, Director Recreation, Culture and Parks Department City of Miami Beach 1700 Convention Center Drive Miami Beach, Florida 33139

RE: Turf and Landscape Agreement

Contract No.: BC687

Financial No.: 25308617203

Subject: Renewal#2

Dear Mr. Smith:

The Department wishes to exercise the second renewal option of the Agreement referenced above for a period of one year starting on September 1, 2004, and ending on August 31, 2005. If your City agrees on this renewal, enclosed are five (5) new contract renewal documents to execute. Please leave the date blank on the top of the renewal form and return the executed documents back before July 15, 2004.

Should you have any questions concerning this renewal, please contact me at telephone number (305) 470-5360.

Sincerely,

Hernan Villar.
Project Manager

cc: Ronald S.Steiner, Jesus Valderrama, Keith Jimmerson, Matt Baldwin, Nancy

Lyons, file

Enclosures

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

CONTRACT RENE NAL

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County(ies	i): Miami-D	ade							
Renewal:	_	First	•	Second					
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ATTACHMENT "A"

Below is the state road, the limits, length and acreage of the area to be maintained by the City of Miami Beach under this AGREEMENT.

STATE ROAD No.	LOCAL NAME	FROM:	TO:	LENGTH (MILES)	ACREAGE
I-195	Julia Tutle Causeway	E. side of Intracoasta Bridge	Alton Road l	2.360	32.030
			TOTAL =	2.360	32.030

RESOLUTION TO BE SUBMITTED

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution authorizing the Mayor and City Clerk to execute the attached Memorandum Of Agreement (MOA) with the Florida Department of Transportation for the turf and landscape maintenance services on I-395 (MacArthur Causeway) for a period of one year with two one year renewal options. The annual cost of \$150,000 to be paid to the City. Said agreement to commence on July 1, 2004.

issue:

Shall the City enter into a new Memorandum of Agreement (MOA) with the Florida Department of Transportation to continue the turf and landscape maintenance on I-395 (MacArthur Causeway) and receive \$150,000 from the FDOT for these services?

Item Summary/Recommendation:

The City and FDOT have had a MOA for the landscape maintenance services on the MacArthur Causeway since 1994 and renewed it annually. The current agreement expired on June 30, 2004.

The City has utilized the services of a private landscape maintenance company to provide the required work within the scope of services included in this agreement. The annual compensation from FDOT pays for the total cost of the agreement with the private contractor and select plant material replacement. The landscape maintenance contract presently in effect with the Florida Lawn Service expires on September 30, 2004.

The City is in the process of issuing new bids for the scope of services included in the maintenance of the MacArthur Causeway project. It is feasible due to the Living Wage Ordinance the bid responses for this scope of work may exceed the annual \$150,000 payment to the City. The Parks and Recreation Administration has been advised by the FDOT that the City's allocation far exceeds the allocation to other municipalities and our maintenance standards are much higher than those FDOT funds. Therefore FDOT can not commit to an increase to the \$150,000 allocation. Dependent upon the bid responses the level of service may need to be modified.

To ensure the MacArthur Causeway landscaping continues to be maintained at the high standards set by the City of Miami Beach the Administration recommends the approval of the attached resolution.

Advisory Board Recommendation:

Kevin Smith

Financial Information:

	Amount	Account	Approved
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2			
3			
4			
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City Clerk's Office Legislative Tracking:

Sian-Offs:

Department Director	Assistant City Manager	City Manager
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AGENDA ITEM <u>C7P</u>
DATE7 7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MEMORANDUM OF AGREEMENT (MOA), WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE TURF AND LANDSCAPE MAINTENANCE SERVICES ON I-395 (MACARTHUR CAUSEWAY), FROM THE EAST SIDE OF WATSON ISLAND TO THE WEST EDGE OF ALTON ROAD, AT THE ANNUAL COST OF \$150,000, TO BE PAID TO THE CITY BY FDOT; SAID AGREEMENT COMMENCING ON JULY 1, 2004, AND CONCLUDING ON

JUNE 30, 2005, WITH AN OPTION TO RENEW FOR TWO YEARS.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

In July of 1994 the City Commission approved the initial Memorandum of Agreement with the Florida Department of Transportation (FDOT) to provide for maintenance of landscaping along the MacArthur Causeway, specifically from the east end of Watson Island to the western edge of Alton road. This agreement has been renewed annually since that time. The current agreement for the MacArthur Causeway expired on June 30, 2004.

For the past several years, the City has utilized the services of a private landscape maintenance company to provide the required work within the scope of services included in this agreement. The annual compensation from FDOT of \$150,000 pays for the total cost of the agreement with the private contractor and select plant material replacement.

The Parks and Recreation Department has a Parks Superintendent responsible to monitor the work of the contractor on a regular basis to ensure specifications are complied with and the landscape materials are properly maintained. Any deviations from the contract are noted in writing to the contractor and followed until resolved.

City Commission Memorandum July 7, 2004 FDOT MacArthur Agreement Page 2

The landscape maintenance contract presently in effect with the Florida Lawn Service expires on September 30, 2004. The City is in the process of issuing new bids for the scope of services included in the maintenance of the MacArthur Causeway project. It is feasible, due to the Living Wage Ordinance that the bid responses for this scope of work may exceed the annual \$150,000 payment to the City. The Parks and Recreation Administration has been advised by the FDOT that the City's allocation far exceeds the allocation to other municipalities and our maintenance standards are much higher than those FDOT funds. Therefore FDOT can not commit to an increase to the \$150,000 allocation. Dependent upon the bid responses the level of service may need to be modified.

To ensure the MacArthur Causeway landscaping continues to be maintained at the high standards set by the City of Miami Beach, and to receive the annual funding of \$150,000 from the Florida Department of Transportation that is necessary to support these maintenance standards, the Administration recommends the approval of the attached resolution and the 2004/2005 Memorandum of Agreement which is to commenced on July 1, 2004 and concludes on June 30, 2005 with an option for renewal for two years.

JMG/RCM/KS/JAO

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RESOLUTION I	NO
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A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ATTACHED MEMORANDUM OF AGREEMENT (MOA), WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR THE TURF AND LANDSCAPE MAINTENANCE SERVICES ON I-395 (MACARTHUR CAUSEWAY), FROM THE EAST SIDE OF WATSON ISLAND TO THE WEST EDGE OF ALTON ROAD, AT THE ANNUAL COST OF \$150,000, TO BE PAID TO THE CITY BY FDOT; SAID AGREEMENT COMMENCING ON JULY 1, 2004, AND CONCLUDING ON JUNE 30, 2005, WITH AN OPTION TO RENEW FOR TWO YEARS.

WHEREAS, in July of 1994, the Mayor and City Commission approved a Memorandum of Agreement with the Florida Department of Transportation (FDOT) to provide for maintenance of landscaping along the MacArthur Causeway; specifically, from the east end of Watson Island to the westernmost edge of Alton Road (the Agreement); and

WHEREAS, this Agreement has been renewed annually since that time; and

WHEREAS, the FDOT has expressed a desire to enter into a new Memorandum of Agreement (MOA) for an initial one year period, commencing on July 1, 2004, and concluding on June 30, 2005; and

WHEREAS, the MOA may be renewed for two additional one year terms, if mutually agreed upon in writing by FDOT and the City; and

WHEREAS, the FDOT has agreed to compensate the City \$ 37,500 per quarter, for a total of \$150,000 per year, for the cost of maintaining said landscaping; and

WHEREAS, the landscape maintenance contract presently in effect expires on September 30, 2004 and the City is in the process of issuing new bids for the scope of services included in the maintenance of the MacArthur Causeway; and

WHEREAS, it is possible, due to the City's Living Wage Ordinance requirements, that the bid responses for this scope of work may exceed the annual \$150,000 payment from FDOT to the City under the MOA, and the City has been advised by the FDOT that the City's allocation far exceeds the allocation to other municipalities, and our maintenance standards are much higher than those FDOT funds; and

WHEREAS, the FDOT has advised the City they cannot commit to an increase to the \$150,000 allocation, and therefore dependent upon the bid responses, the level of service may need to be modified; and

WHEREAS, to ensure the MacArthur Causeway landscaping continues to be maintained at the high standards set by the City, and to receive the annual funding of \$150,000 from FDOT that is necessary to support these maintenance standards, it is recommended that the City retroactively approve the attached Fiscal Year 2004/2005 Memorandum of Agreement, commencing on July 01, 2004, and concluding on June 30, 2005, with an option for renewal for two years.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission retroactively approve and authorize the Mayor and City Clerk to execute the attached Memorandum of Agreement (MOA) with the Florida Department of Transportation (FDOT) for the turf and landscape maintenance services on I-395 (Mac Arthur Causeway), from the east side of Watson Island to the western edge of Alton Road, at an annual cost of \$150,000, to be paid to the City by FDOT; said Agreement commencing on July 01, 2004 and concluding on June 30, 2005, with an option to renew for two years.

PASSED and **ADOPTED** this 7th day of July, 2004.

	MAYOR
ATTEST:	
CITY CLERK	

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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION



Florida Department of Transportation

JEB BUSH GOVERNOR

March 2, 2004

District Six • Maintenance Office 1000 Northwest 111th Avenue, Room 6214 Miami, Florida 33172-5800

JOSE ABREU SECRETARY

Jorge M. Gonzalez City Manager City of Miami Beach 1700 Convention Center Drive Miami Beach, Florida 33139

RE: Turf and Landscape Agreement

Contract No.: BD943 Financial No.: 25308717203

Dear Mr. Gonzalez:

The Department desires to enter into the agreement referenced above with the City of Miami Beach. Enclosed are five (5) new contract documents for a period of one year with two renewal options for two more years. The contract time shall begin on July 1, 2004, and end on June 30, 2005. Please execute the five (5) enclosed documents and return them to:

Hernan Villar 1000 NW 111 Ave., Room 6214 Miami, Florida 33172

Please leave the date blank in the first page on all four documents and return them as soon as possible.

Should you have any questions concerning this agreement, please contact me at telephone number (305) 470-5350.

Sincerely,

Ronald S. Steiner, P.E.

District Maintenance Engineer

cc: Ronald S. Steiner Keith Jimmerson, Matt Baldwin, Jesus Valderrama, Hernan Villar, Sarah Perez, Nancy Lyons, file

DEPARTMENT OF TRANSPORTATION TURF AND LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE CITY OF MIAMI BEACH

This AGREEMENT, entered into this _______ day of ______, 20_____, by and between the STATE OF FLORIDA, Department of Transportation, a component agency of the State of Florida, hereinafter called the DEPARTMENT and the CITY OF MIAMI BEACH, a municipal corporation of the State of Florida, existing under the Laws of the State of Florida, herein after called the CITY.

WITNESSETH

WHEREAS, as a part of the continual updating of the State of Florida Highway System, the DEPARTMENT for the purpose of safety has created roadside areas and median strips on that part of the State Highway System described by Attachment "A", which by reference hereto shall become a part hereof, within the corporate limits of the CITY and

WHEREAS, the CITY hereto is of the opinion that said median strips and roadside areas shall be attractively landscaped with various flora; and

WHEREAS, the parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party; and

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. CITY'S MAINTENANCE RESPONSIBILITY

The CITY shall be responsible for the maintenance of all

landscaped and/or turfed areas within the **DEPARTMENT'S** right-of-way having the limits described by Attachment "A". The **CITY** shall be responsible for performing the work described below with a minimum frequency of twelve (12) times per year:

- 1.1. Mow, cut and/or trim and edge the grass or turf in accordance with the latest edition of the State of Florida "Guide for Roadside Mowing" and the latest edition of the "Maintenance Rating Program".
- 1.2. Properly prune all plants which includes plant and tree trimmings in accordance with the latest edition of the "Maintenance Rating Program". Pruning such parts thereof which may present a visual or other safety hazard for those using or intending to use the right-of-way.
- 1.3. Remove and dispose dead, diseased or otherwise deteriorated plants.
- 1.4. Keep litter removed from roadside and median strips.
- 1.5. Remove and dispose of all trimmings, roots, branches, litter, etc., resulting from the activities described by (1.1) through (1.4) inclusively as described above.

2. WORK SCHEDULE

The CITY shall submit a schedule to the DEPARTMENT containing the dates of when the CITY is planning to perform the mowing work. In addition, before the CITY starts the work, the DEPARTMENT shall be notified via fax of the state road(s) and day(s) in which the CITY will be working. The fax shall be sent to the attention of the "South Dade Maintenance Engineer", at fax number (305) 256-6304.

3. NATURAL DISASTERS

The CITY shall not be responsible for the clean-up, removal and disposal of debris from the DEPARTMENT'S right of way having limits described by Attachment "A", or subsequent amended limits mutually agreed to in writing by both parties following a natural disaster (i.e. hurricane, tornados, etc.). However, the cost of any cycle or part thereof that could be impaired by any such event may be deducted from the payment to the CITY.

4. MAINTENANCE DEFICIENCIES

If, at any time while the terms of this AGREEMENT are in effect, it shall come to the attention of the DISTRICT MAINTENANCE ENGINEER that the CITY'S responsibility as established herein or a part thereof is not being properly accomplished pursuant to the terms of this AGREEMENT, said DISTRICT MAINTENANCE ENGINEER may at his option issue a written notice in care of the CITY MANAGER, to place said CITY on notice thereof. Thereafter the CITY shall have a period of thirty (30) calendar days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within this time period the DEPARTMENT may at its option, proceed as follows:

- **4.1.** Maintain the median or roadside area declared deficient with **DEPARTMENT** and/or a Contractor's material, equipment and personnel. The actual cost for such work will be deducted from payment to the **CITY** or
- 4.2. Terminate this AGREEMENT.

5. NOTICES

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by registered mail or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

To DEPARTMENT:

Florida Department of Transportation 1000 Northwest 111th Avenue, Room 6214 Miami, Florida 33172-5800

Attention: District Maintenance Engineer

To CITY:

City of Miami Beach 1700 Convention Center Drive Miami Beach, Florida 33139 Attention: City Manager

6. LANDSCAPE MODIFICATION

It is understood between the parties hereto that the landscaping covered by this AGREEMENT may be removed, relocated or adjusted at any time in the future as found

Memorandum of Agreement Contract No. BD943

Financial Number: 25308717203

necessary by the **DEPARTMENT** in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet with future criteria or planning of the **DEPARTMENT**.

7. METHOD OF COMPENSATION

In accordance with requirements of Section 287.058(1)(d), Florida Statutes, the **DEPARTMENT** agrees to pay the **CITY** quarterly (each three month period) compensation for the cost of maintenance as described under Subitems (1.1) through (1.5).

The lump sum payment will be in the amount of $\frac{$37,500.00}{$000000}$ dollars per quarter for a total appropriation of $\frac{$150,000.00}{$000000}$ dollars per year.

In accordance with Section 287.058(1)(a), Florida Statutes, the CITY shall submit the quarterly invoice/bill in detail sufficient for proper preaudit and postaudit thereof.

8. VENDOR RIGHTS

Section 215.422(5), Florida Statutes, requires the Department to include a statement of vendor (Contractor) rights. Contractors are hereby advised of the following:

Contractors providing goods and services to an agency should be aware of the following time frames. Upon receipt, an agency has 5 working days to inspect and approve the goods and services, unless the bid specifications, purchase order or contract specifies otherwise. An agency has 20 days to deliver a request for payment (voucher) to the Department of Banking and Finance. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, by the Department of Transportation.

If a payment is not made within 40 days, a separate interest penalty at the rate established pursuant to Section 55.03(1) Florida Statutes will be due and payable, in addition to the invoice amount, to the Contractor. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one dollar will not be enforced unless the Contractor requests payment.

Invoices which have to be returned to a Contractor because of Contractor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department of Transportation.

A Vendor Ombudsman has been established within the Department of Banking and Finance. The duties of this individual include acting as an advocate for Contractors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted by calling the State Comptroller's Hotline, 1-800-848-3792.

9. PAYMENT ADJUSTMENT

In the event temporary work by the **DEPARTMENT** forces or by other Contractors temporarily prevent the **CITY** from performing the work described in this **AGREEMENT**, the **DEPARTMENT** shall deduct from the lump sum payment the acreage of the affected area and only compensate the **CITY** for the actual work it performs.

The **DEPARTMENT** shall initiate this procedure only if the temporary work described in this section is for a period of one (1) month or longer. Adjustment to the **CITY'S** payment shall also be done as noted in Item Three (3). In the event this **AGREEMENT** is terminated as established by Item Ten (10) herein, no payment will be prorated for the quarter in which termination occurs for the work that has been completed.

10. TERMINATION

This AGREEMENT or part thereof is subject to termination under any one of the following conditions:

- 10.1. In the event the **DEPARTMENT** exercises the option identified by Item Four (4) of this **AGREEMENT**.
- 10.2. As mutually agreed to by both parties.
- 10.3. In accordance with Section 287.058(1) (c), Florida Statutes, the **DEPARTMENT** shall reserve the right to unilaterally cancel this **AGREEMENT** if the **CITY** refuses to allow public access to any or all documents, papers, letters, or other materials made

Memorandum of Agreement Contract No. BD943

Financial Number: 25308717203

or received by the CITY pertinent to this AGREEMENT which are subject to provisions of Chapter 119, of the Florida Statutes.

11. TERMS

- 11.1. The terms of this AGREEMENT shall only commence when the DEPARTMENT issues the CITY the Notice To Proceed Letter.
- 11.2. In accordance with Section 287.058(1)(e), Florida Statutes, this AGREEMENT is for a period of one (1) year beginning on the date stated in the Notice To Proceed letter.
- 11.3. In accordance with Section 287.0582, Florida Statutes; `The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

To comply with Section 287.0582, F.S., the Department shall only appropriate the annual amount of \$150,000.00 at the beginning of each Department Fiscal Year.

12. RENEWAL

In accordance with Section 287.058(1)(f), Florida Statutes, this AGREEMENT may be renewed on a yearly basis for a maximum of two (2) years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, only if mutually agreed to in writing by the DEPARTMENT and the CITY, subject to the same terms and conditions set forth in this AGREEMENT, and said renewals shall be contingent upon satisfactory performance evaluations by the DEPARTMENT and subject to the availability of funds.

13. ATTACHMENT AA≅ AMENDMENT

It is further understood that Attachment "A" may be amended or changed at any time, as mutually agreed to in writing by both parties. Payment as specified in Item Seven(7) above shall reflect such amendment or change.

14. TIME EXTENSION

In accordance with Section 287.012(10), Florida Statutes, this AGREEMENT may be extended if mutually agreed to in writing by both parties, for a period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in this AGREEMENT; provided the DEPARTMENT may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There shall be only one extension of this AGREEMENT.

15. ADDITIONAL LANDSCAPING

The CITY may construct additional landscaping within the limits of the right-of-ways identified as a result of this document, subject to the following conditions:

- 15.1. Plans for any new landscaping shall be subject to approval by the **DEPARTMENT**. The **CITY** shall not change or deviate from said plans without written approval by the **DEPARTMENT**.
- 15.2. All landscaping shall be developed and implemented in accordance with appropriate state safety and road design standards;
- 15.3. All requirements and terms established by this AGREEMENT shall also apply to any additional landscaping installed under this item;
- The CITY agrees to complete, execute and comply with the requirements of the DEPARTMENT'S standard permit provided as Attachment "B" (not to actual size) to this AGREEMENT with by reference hereto shall be a part of hereof;
- No change will be made in the payment terms established under Item Seven (7) of this AGREEMENT due to any increase in cost to the CITY resulting from the installation and maintenance of landscaping added under this item;

Memorandum of Agreement Contract No. BD943

- 15.6. In the event this AGREEMENT is terminated as established under Item Ten (10) herein, the CITY agrees to accept full responsibility for all maintenance within the entire area(s) defined by plans and permits defined and established as a result of this item. The CITY shall provide this maintenance at no cost to the DEPARTMENT.
- 16. This writing embodies the entire AGREEMENT and understanding between the parties hereto and there are not other agreements and understanding, oral or written reference to the subject matter hereof that are not merged herein and superseded hereby.
- 17. This AGREEMENT is nontransferable and nonassignable in whole or in part without consent of the DEPARTMENT.
- 18. This AGREEMENT, regardless of where executed shall be governed by, and constructed according to the laws of the State of Florida.
- 19. Nothing in this AGREEMENT shall be construed to violate the provisions of Section 339.135(6)(a), of the Florida Statutes (1997), which provides as follows:

The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection, is null and void and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of a contract for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are of an amount in excess of \$25,000 and which have a term for a period of more than one year.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed the day and year first above written.

LANDSCAPING AGREEMENT WITH THE CITY OF MIAMI BEACH.

	STATE OF FLORIDA
CITY OF MIAMI BEACH	DEPARTMENT OF TRANSPORTATION
BY:	BY:
City Manager	BY:
ATTEST:	ATTEST:
City Clerk (Seal)	Executive Secretary
APPROVE	D AS TO LEGAL FORM:
BY:	BY:
City Attorney	District General Counsel

ATTACHMENT "A"

Below is the state road, the limits, length and acreage of the areas to be maintained by the City of Miami Beach under this AGREEMENT.

State Road	Street Name	From	То	Length (miles)	Acreage
A1A	Mac Arthur Causeway	East side of Watson Island	West side of East Channel Bridge	1.816	5.303
			TOTAL:	1.816	5.303

ATTACHMENT "B"

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
SPECIAL PERMIT

District Six 6/95

DATE:				PERMIT NO.:				
SECTION	NO:	**************************************		STATE ROAD NO.:				
COUNTY:				MILEPOST FROM:	TO:			
STATE PR	OJECT NO. :		(if applicable)	RECORD NO.:				
1001 TG11								
APPLICAN ADDRESS:								
CITY:				STATE:		ZIP CODE:		
						ZIP CODE:		
TELEPHON	E NO.:							
Applican	t requests perπ	ission from the S	tate of Florida	Department of Transp	ortation, hereinaft	er called the		
Departme	ent, to construc	t, operate, and mai	intain the facil:	ity shown in the acco	mpanying engineering	as described		
here:								
Location	of	Construction,	Stroot	Name and				
	. 01	construction,	Street	Name, and	Nearest	Intersection:		
			·					
1.	Is the proposed	work within the c	orporate limits	of a municipality: Y	res () No ()			
		nicipality:			Local Governme	nt Contact:		
_								
2.	Prior to filing	this application,	the location of a	all existing utilities	, both aerial and un	derground, has		
	Deen ascertaine			shown on the drawin		A letter of		
	notification utilities/munic	was mail	ed on	-	to the	following		
	actificies/manic	rparreres:						
3.	It is expressly	stipulated that th	is permit is a l	icense for permissive	use only and that th	e construction		
	within and/or	upon public proper	ty pursuant to	this permit shall no	of operate to create	e constitution		
	property right	in said holder.		The product of the contract of	operate to create	. Or vest any		
4.	Whenever it is	determined by t	he Department t	hat it is necessary	for the construc	tion, repair.		
	improvement, ma	intenance, safe and	/or efficient ope	eration, alteration, o	r relocation of anv	or all portion		
	of said highwa	y and/or transport	ation facility;	the Permittee shall	immediately remove	anv and all		
	installed facil	ities from said hi	ghway and/or tra	ansportation facility	, or reset or reloca	te thereon as		
	required by the	Department at the	Permittee's exp	ense.				
5.	All work shall meet Department's Roadway and Traffic Design Standards, Specifications for Road and Bridge							
	Construction, and other applicable criteria in effect at the time of permit issuance. The work shall be							
	performed under	the inspection sup	pervision of		, Permit/Mainte	nance Engineer		
	performed under the inspection supervision of							
	shall be notified forty-eight (48) hours prior to the pre-construction meeting and again immediately before commencement of work. All material and equipment shall be subject to inspection by the designated							
	engineer or his	authorized represe	material and equ	ilpment shall be subje	ct to inspection by	the designated		
6.				original condition as				
	Department Spec	ifications, and in	a manner satisfa	actory to the Departme	nt within thinks (2	keeping with		
	installation of	the permitted wor	k. unless otherw	ise approved by the D	nc, within thirty (3)	o) days of the		
7.	A drawing cover	ing details of thi	s work shall be	made a part of this p	epartment.	aball imaluda		
	plan, profile,	and cross sections	as appropriate.	and may be required	to hear the seal of	snall include		
	engineer licens	ed in the State of	Florida. As bu	ilt drawings are requ	ired: Yes () No	o professionar		
8.	The Permittee s	hall commence actu	al construction	in good faith within	days fro	m the date of		
	said permit app	roval and shall co	mpete constructi	on within	days from the commend	rement of work		
	unless the perm	ittee shows good c	ause for delay a	nd the Department app	roves an extension.	No extension		
	beyond one (1)	year from the date	of issuance of	this permit will be a	ranted.			
9.	This constructi	on and maintenance	shall not inter	fere with the propert	y and rights of a pr	ior Permittee.		
10.	Special	Conditions	and In	structions by		Department:		
								
		· · · · · · · · · · · · · · · · · · ·						
								
11.	It is understoo	d and agreed that	the rights and n	rivileges herein set				
	of the State's	right, title, and	interest in the	land to be entered up	out are granted only	to the extent		
	heirs, assigns,	and successors in	interest, and the	he Permittee will, at	all times assume a	ermittee, nis		
	indemnify, defe	nd, and save harmle	ess the State of	Florida and the Depar	tment from and against	II FISK OF AND		
	loss, damage, c	ost, or expense ar:	ising in any man	ner on account of the	exercise or attempts	od evergise by		
	said Permittee	of the aforesaid r:	ights and privil	eqes.		_		
12.	During construc	tion through Depar	tment acceptance	of the permitted wor	ck. all safety regul	ations of the		
	Department shal	l be observed and t	the holder must t	ake measures, includi:	no placement and disr	lay of cafety		
	devices, that	may be necessary :	in order to saf	elv conduct the pub	lic through the pro	dect area in		
	accordance with	the Department's cu	urrent edition of	the Roadway and Traf	fic Design Standards	Index Series		
12	600, and the Ma	nual of Uniform Tra	affic Control De	vices.				
13.	nermit this	compliance with th	e Department's r	equirements in effect	as of the approved	date of this		
	permit, this pe	rmre is void and El	HE WOLK MITT DE D	prought into compliance	e or removed from the	right-of-way		

Memorandum of Agreement

Contract No. BD943

Financial Number: 25308717203

13.

Submitted and Agreed to by:			Corporate Seal
•	Signature of Permittee		corporate sear
	Name and Title (typed)		Attested
Recommended for approval:	· · · · · · · · · · · · · · · · · · ·	Title:	Date:
Approved by:			Date:
District Per	mit Engineer or Authorized R	epresentative	

at no cost to the Department.

Memorandum of Agreement Contract No. BD943 Financial Number: 25308717203

ATTACHMENT "C"

ATTACH CITY RESOLUTION

Memorandum of Agreement Contract No. BD943 Financial Number: 25308717203

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Setting A Public Hearing To Consider An Amendment To The Comprehensive Plan Of The City Of Miami Beach, By Amending The Future Land Use Map Of The Comprehensive Plan By Changing The Future Land Use Category For The Following Parcels: 1) A Portion Of A Parcel Of Land Commonly Known As The "Federal Triangle," From The Current ROS, "Recreation And Open Space," To The Future Land Use Category Of MR, "Marine Recreation;" And 2) A City-Owned Parcel 50-Feet Wide Fronting On Biscayne Bay on the Hinson Parcel From The Current CPS-3, "Commercial Intensive Mixed-Use," To The Future Land Use Category ROS, "Recreation And Open Space."

Issue:

Should the City Commission amend the Future Land Use Map of the City's Comprehensive Plan for these two parcels of land in order to effectuate a settlement agreement for certain pending litigations with the Portofino entities?

Item Summary/Recommendation:

As part of a settlement agreement, accepted in concept by the City Commission on February 25, 2004, a "concept plan" has been developed. The plan would require certain modifications to the Future Land Use Map categories for a portion of a parcel of land commonly known as the "Federal Triangle," from the current ROS, "Recreation and Open Space," to the Future Land Use category of MR, "Marine Recreation;" and a City-owned parcel 50-feet wide fronting on Biscayne Bay, on the Hinson parcel from the current CPS-3, "Commercial Intensive Mixed-use," to the Future Land Use category ROS, "Recreation and Open Space.

The Administration recommends that the City Commission set a public hearing for the July 28, 2004 meeting to make this determination.

Advisory Board Recommendation:

The Planning Board at its June 22, 2004 meeting made the following Motion: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:	
Mercy Lamazares/Jorge G. Gomez	

Sign-Offs:

Department Director	Assistant City Manager	City Manager	
	I MC	Jana	

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AGENDA ITEM <u>C7Q</u>

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: Future Land Use Map (FLUM) Change

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CATEGORY FOR THE FOLLOWING PARCELS, MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTIONS ATTACHED AS EXHIBITS **HERETO:** 1) A PORTION OF A PARCEL OF LAND COMMONLY KNOWN AS THE "FEDERAL TRIANGLE," APPROXIMATELY 4,178 SQUARE FEET, FROM CURRENT ROS, "RECREATION AND OPEN SPACE," TO THE FUTURE LAND USE CATEGORY OF MR, "MARINE RECREATION;" AND 2) A CITY-OWNED PARCEL 50-FEET WIDE FRONTING ON BISCAYNE BAY, OF APPROXIMATELY 4,600 SQUARE FEET, ON BLOCK 8, SOUTH BEACH PARK SUBDIVISION (A/K/A HINSON PARCEL) FROM THE CURRENT CPS-3, "COMMERCIAL INTENSIVE MIXED-USE." TO THE FUTURE LAND USE CATEGORY ROS, "RECREATION AND **OPEN SPACE."**

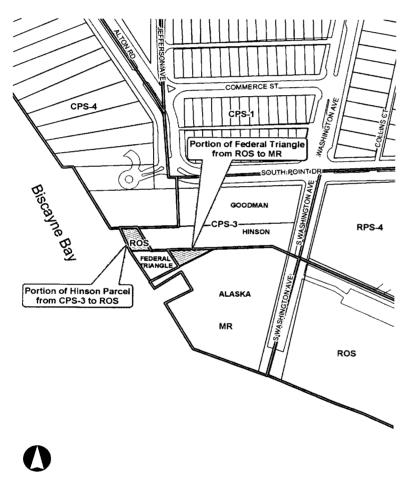
ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission set a public hearing for the July 28, 2004 meeting.

BACKGROUND

After a series of down-zonings citywide in 1998, and the denial of a request in 2001 for the re-zoning of the "Alaska" parcel, a number of the Portofino Entities initiated litigation against the City and the Florida Department of Community Affairs claiming damages and rights under the Bert J. Harris Jr. Private Property Rights Act, other civil rights violations and other relief in Circuit Court, U.S. District Court and the Florida Division of Administrative Hearings.

As part of a settlement agreement, accepted in concept by the City Commission on February 25, 2004, a "concept plan" has been developed. The plan would require certain modifications to the Future Land Use Map categories for the following properties: 1) a portion of a parcel of land commonly known as the "Federal Triangle," approximately 4,178 square feet, from the current ROS, "Recreation and Open Space," to the Future Land Use category of MR, "Marine Recreation;" and 2) a City-owned parcel 50-feet wide fronting on Biscayne Bay, of approximately 4,600 square feet, on Block 8, South Beach Park subdivision (a/k/a Hinson parcel) from the current CPS-3, "Commercial Intensive Mixed-use," to the Future Land Use category ROS, "Recreation and Open Space, and as indicated on the attached graphic.



ANALYSIS

As part of the history of the City of Miami Beach, it is interesting to note that the southern portion of Miami Beach extended south to what is today Fisher Island. In the early 1900s, when the federal government dredged a cut through the narrow isthmus in order to create an access from the Atlantic Ocean to the mainland of Miami-Dade County. (hence "Government Cut,") it retained control of the land on the north south of the Cut maintenance purposes. In 1979 that land was declared surplus and the parcels today known as South Pointe Park and "federal triangle" were deeded to the City. with a restriction that they be used for park or public recreational purposes only and subject to a 50foot easement in perpetuity for channel maintenance. Anv changes to the stipulations of the deed have to be by mutual consent between the U.S.

Department of Interior and the City. The land known as the "Alaska" parcel was part of the federal government land reservation and was deeded to the Cook Inlet Region, Inc. of Alaska at the time the Alaskan oil pipeline was being constructed. The applicant is currently seeking approval from the federal government to convert a portion of the "federal triangle" from public to private use.

The proposed ordinance to change the FLUM for the portion of the City-owned 50-feet wide parcel of the Hinson Parcel fronting on Biscayne Bay was never changed from CPS-3 and would expand the amount of land designated as ROS. The Federal Triangle is currently ROS; a portion approximately +/- 4,100 square feet is proposed to be changed to MR, Marine Recreation category.

This change is necessary to accommodate the "concept plan" developed as part of the settlement agreement and is an exchange of land for what the City is receiving from the Alaska parcel.

FISCAL IMPACT ANALYSIS

The proposed ordinance will change the future land use category of 4,178 square feet of the Federal Triangle from the current ROS, "Recreational Open Space," to MR, "Marine Recreational." There should be minimal, if any, adverse fiscal impact to the current condition as MR has a maximum FAR of 0.25 as opposed to ROS, which has a maximum FAR of 0.50. The proposed change to the portion Hinson Parcel will codify in a future land use category this city-owned property. Furthermore, pursuant to a Settlement Agreement, the City will also receive a large portion of the Alaska Parcel, which will then become public property for the enjoyment and general welfare of the residents of the City.

DESIGN REVIEW BOARD COMMENTS

The following is a summary of the comments given by the Design Review Board at the June 15, 2004 meeting regarding the South Pointe Concept Master Plan.

Regarding the City's portion of the Alaska Parcel:

- All members were strongly opposed to filling in the Boat Basin.
- The Boat Basin is a valuable amenity.
- There was a strong consensus against commercial development.
- Available space should be used for a park and green space amenities.

Regarding the developer's portion:

- Residential uses are preferred, with the exception of an accessory restaurant.
- The placement of residential uses on the south side of the parking structure on the Alaska Parcel facing the park is not desirable.
- Architectural development of the parking garage elevations is the preferred method to screen the parking on the Alaska Parcel.
- The safety of the public must be addressed regarding the dead end alley which will be created on Block 52.
- The vehicular bridge connection created on Block 51 is not desirable.

PLANNING BOARD ACTION

The Board reviewed the items related to the Portofino-related settlement agreement on June 22, 2004 and had the following comments:

Summary of Board Comments:

- Allowing upzoning with a trade of land, is in the best interest of the City and mitigates the density increase in other places.
- Concerned about the height of Block 1 as it creates an inconsistency with the rest of the neighborhood. The massing should be at Collins and South Pointe Drive and not distributed throughout the entire block.
- Boat basin filling or leaving as is needs to be looked at again when there is a cohesive plan for the park.
- With respect to commercial uses, there is an anomaly at the base of Portofino Tower if nothing else happens. Some consideration should be given to placing a transitional element at the corner of South Pointe and Alton Road.
- The pedestrian access to the waterfront through Murano should be enhanced to work more like a public access and not a private road.
- There should be a transitional use between the pedestal and the park.
 Residential uses are preferred. Would like to see limited concessionary uses in the park.
- Park uses should not be micromanaged. Important to realize the land trade;
 there should not be large scale commercial uses in the park.
- When the park design and its programmatic uses have been developed, the plan should be brought back to the Planning Board for review.

Points of consensus:

- Importance of land swap to create bigger corridor next to basin.
- Need to redistribute heights and FAR in Block 1 and deal with open court regulations. The open courtyards in concept plan do not enhance the design of structures.
- City's use of development rights at the park's edge should be limited to civic uses and perhaps very limited concessions that are accessory to park uses (rest rooms, roller blade rental, water).
- Need for some transitional element between pedestal and the park.

Points of less unanimity:

- Re-consider distribution of uses on Block 51, in particular uses on Commerce Street, massing and revisiting open court regulations.
- Limited commercial uses along South Pointe Drive on Goodman/Hinson.

Individual concerns:

- Closing alley on Block 1.
- Public access from Alton Road to the park.
- Commercial development on Block 52.

<u>Motion</u>: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

Summary of Collaborative Planning Process Comments relative to Concept Plan:

As provided for in the term sheet approved by the parties on February 25, 2004, and finalized on March 8, 2004, the Concept Plan was to be developed in coordination and collaboration with Neighborhood Representatives. Meetings were held with the Developer and Neighborhood Representatives on March 31, April 7, May 20, June 14, 22 and 28, 2004 in addition to public review at the Design Review Board on June 15, 2004 and at the Planning Board on June 22, 2004.

The DRB and Planning Board recommendations listed above were not adopted as formal amendments to the Land Development Regulations. The City Commission should discuss and consider the recommendations provided by both Boards. If further changes to the Concept Plan are desired, the corresponding policy direction will need to be reflected in the proposed Land Development Regulations before 2nd reading.

In summary, the Concept Plan reflects the following:

Goodman/Hinson/Alaska:

A rounded footprint of the tower and pedestal to be constructed on Goodman/Hinson/Alaska, that allows for an expanded setback of 70 feet from and retention of the boat basin.

The City Commission should address the proposed use of the approximately 9,500 sf of allocated FAR retained by the Developer on the Alaska parcel and determine if:

- a) the Developer retains the 9,500 square feet \pm on the Alaska parcel as permitted marine recreational use to be located at the south side of the tower's parking pedestal, deeding the originally contemplated 80,450 sf of the Alaska parcel to the City, or
- b) implement the preferred neighborhood option which is to re-allocate the 9,500 square feet of FAR on Alaska to be included in the developable FAR within the tower to be constructed on Goodman/Hinson as residential use, (resulting in an increase width of 4 ft on each side of the building) i.e. increasing the permitted FAR from 296,000 square feet to 305,500 square feet, without any increase in the height of the proposed building, and thereby eliminating the 9,500 square feet of potential commercial use by the Developer within the Alaska parcel. In this scenario, the Developer would then increase its contribution of land to the City by an additional 7,100 square feet for a total of approximately 87,550 square feet of land to be deeded to the City.

In either scenario, the City would still retain its development rights for approximately 28,000 square feet of FAR within Alaska; such uses to be determined as part of the planning process for the design and development of South Pointe Park.

Block 1, 51 & 52:

The DRB and Planning Board also commented on massing concerns on Block 1 and Block 51 and they discussed the activation of the ground floor (or facades) facing Commerce Street on Block 51 and Collins Avenue on Block 1. The neighborhood sentiment is to limit any further commercialization of the area.

Again, the City Commission should consider any further changes to the Concept Plan and the corresponding policy direction that should be reflected in the proposed Land Development Regulation amendments before 2nd reading.

CONCLUSION

Pursuant to Section 163.3187(1)(c)3. F.S., small scale development amendments to the Comprehensive Plan of less than ten acres require only one public hearing before the City Commission.

Notice requirements are as stipulated in Section 166.041(3)(a) F.S., and City Code Section 118-164(1). When the proposed amendment involves less than ten contiguous acres notice shall be given by mail to the owners of record of land lying within 375 feet of the land stating the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the city clerk. The city commission, upon the conclusion of the public hearing, immediately adopt the ordinance.

JMG/CMC/JGG/ML

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RESOLUTION NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE CATEGORY FOR THE FOLLOWING PARCELS, MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTIONS ATTACHED AS EXHIBITS **HERETO:** A PORTION OF A PARCEL OF LAND 1) COMMONLY KNOWN AS THE "FEDERAL TRIANGLE." APPROXIMATELY 4,178 SQUARE FEET, FROM THE CURRENT ROS, "RECREATION AND OPEN SPACE," TO THE FUTURE LAND USE CATEGORY OF MR, "MARINE RECREATION;" AND 2) A CITY-OWNED PARCEL 50-FEET WIDE FRONTING ON BISCAYNE BAY, OF APPROXIMATELY 4,600 SQUARE FEET, ON BLOCK 8, SOUTH BEACH PARK SUBDIVISION (A/K/A HINSON PARCEL) FROM THE CURRENT CPS-3, "COMMERCIAL INTENSIVE MIXED-USE," TO THE FUTURE LAND USE CATEGORY ROS, "RECREATION AND OPEN SPACE;" **PROVIDING FOR** INCLUSION IN THE **COMPREHENSIVE** TRANSMITTAL, PLAN. REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, East Coastline Development, Ltd. ("East Coastline") and West Side Partners, Ltd. ("West Side") among others which have initiated litigation against the City of Miami Beach (the "City") and the Department of Community Affairs claiming damages and rights under the Bert J. Harris, Jr. Private Property Rights Act, other civil rights violations and other relief in Circuit Court Case No. 98-13274 CA 01(30), and United States District Court Case No. 01-4921-CIV-Moreno, and Florida Divisions of Administrative Hearing Case No. 02-3283GM West Side Partners, Ltd., and

WHEREAS, the Mayor and City Commission have approved a Settlement Agreement, in concept, between the City and East Coastline, West Side and others with respect to the above-noted litigations, pursuant to Resolution No. 2004-25509, adopted on February 25, 2004; and

WHEREAS, that Settlement Agreement provides, among other things, for a Concept Plan for the properties known as the Alaska Parcel, the Goodman Terrace and Hinson Parcels, Blocks 51 and 52 and Block 1 (the "Affected Properties"), to be considered by the Mayor and City Commission; and

WHEREAS, a review of the Concept Plan and the Settlement Agreement indicates the necessity for modifications of the City Future Land Use Map designations for the following properties: 1) a portion of a parcel of land commonly known as the "Federal Triangle," approximately 4,178 square feet, from the current ROS, "Recreation and Open Space," to the Future Land Use category of MR, "Marine Recreation;" and 2) a

City-owned parcel 50-feet wide fronting on Biscayne Bay, of approximately 4,600 square feet, on Block 8, South Beach Park subdivision (a/k/a Hinson parcel) from the current CPS-3, "Commercial Intensive Mixed-use," to the Future Land Use category ROS, "Recreation and Open Space;" in order to effectuate the Concept Plan and the Settlement; and

WHEREAS, this Ordinance is being adopted to allow implementation of that Settlement Agreement and Concept Plan through the adoption of certain changes to the Future Land Use Map designations of the above-noted parcels to permit the developments contemplated in such Agreement and Plan to proceed; and

WHEREAS, these amendments to the Future Land Use Map designations were not required by the Settlement Agreement but were independently determined and recommended appropriate for adoption by the City staff and the Planning Board, based upon public input after public hearing, following all requirements of procedural due process attendant thereto; and

WHEREAS, full legal descriptions of the Affected Properties are contained in Exhibits attached to this Ordinance, and shortened descriptions of such properties will be codified in the amendments below.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA THAT a public hearing is hereby set to be held before the City Commission on July 28, 2004.

PASSED AND ADOPTED this	day of	, 2004.	
ATTEST:			
CITY CLERK	_		MAYOR

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

M Mullin 7-2-04
City Attorney 24 Date

ENTIRE FEDERAL TRIANGLE

LEGAL DESCRIPTION

PARCEL TWO

For a Point of Reference commence at monument "C" as described in Parcel One above, run thence along the northeasterly line of the U. S. Corps of Engineers Reservation, North 65°35'12" West, a distance of 151.63 feet, more or less, to a steel pin set in concrete, designated monument "G"; thence run South 87°38'37" West a distance of 208.58 feet along the northwesterly boundary of the U. S. Corps of Engineers Reservation to monument "West", having coordinates of X-784,093.91 and Y-521,966.52, said point being the Point of Beginning of the tract being described herein.

From said Point of Beginning, run thence South 57°41'41" West, a distance of 226.20 feet to U. S. Corps of Engineers monument "Virgil", having coordinates of X-783,902.72 and Y-521,845.63; thence continue South 57°41'41" West a distance of 4.0 feet, more or less, to the face of an existing steel bulkhead and the approximate north shore of the Entrance Channel to Miami Harbor; thence run Northwesterly along the north shore of Miami Harbor on an approximate bearing of North 32°05'08" West, a distance 132.34' more or less, to a point which lies South 87°38'37" West, a distance of 265.09 feet from monument "West"; thence run North 87°38'37" East along the northwesterly boundary of the U. S. Corps of Engineers Reservation passing thru a concrete monument designated "F" at a distance of 121 feet, more or less, for a total distance of 265.09 feet to monument "West", and the Point of Beginning.

The above-described tract or parcel of land contains 0.35 acre, more or less. The bearings and distances stated herein are based on the Mercator Grid Systems of the East Zone of Florida.

EXHIBIT "A" (Legal Description)



Block 8, SOUTH BEACH PARK SUBDIVISION, recorded in Plat Book 6, at Page 77, of the Public Records of Miami-Dade County, Florida, less and excepting therefrom the following two dedications:

A 50.00 foot dedication in Block 8, of SOUTH BEACH PARK SUBDIVISION, recorded in Plat Book 6, at Page 77, of the Public Records of Miami-Dade County, Florida. Said 50.00 foot dedication being described as follows:



Bounded on the North by the Northerly line of said Block 8, bounded on the South by the Southerly line of said Block 8, said Southerly line also being the Northerly line of the Government Reservation shown hereon; bounded on the East by a line parallel to and 50.00 feet distant Easterly of, as measured at 90 degrees to the Westerly line, of said Block 8; bounded on the West by the Westerly line of the above-referenced Block 8, said Westerly line also being the Easterly line of Biscayne Bay.

A 40.00 foot dedication in Block 8, of SOUTH BEACH PARK SUBDIVISION, recorded in Plat Book 6, at Page 77, of the Public Records of Miami-Dade County, Florida. Said 40.00 foot dedication being described as follows:

Bounded on the North by the Northerly line of the above-referenced Block 8; bounded on the South by the Southerly line of the above-referenced Block 8, said Southerly line also being the Northerly line of the Government Reservation shown hereon; bounded on the East by the Westerly line of Washington Avenue, said Westerly line also being the Easterly line of Block 8; bounded on the West by a line parallel to and 40.00 feet; distant Westerly of as measured at 90 degrees to the Westerly line, of the above-referenced Washington Avenue.

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, setting a public hearing to consider an amendment to the Official Zoning District Map, by changing the zoning district classification for a portion of a parcel of land commonly known as the "Federal Triangle," from the current GU, "Government Use," to the proposed zoning classification MR, "Marine Recreation;" and a portion of Lot 18 and the 10 foot strip of land adjacent thereto, and a portion of Lots 29 and 30 and the 10 foot strip of land adjacent thereto, Block 51 from GU, "Government Use," to the proposed zoning classification CPS-1, "Commercial Limited Mixed-Use."

issue:

Should the City Commission amend the Official Zoning Map for these parcels of land in order to effectuate a settlement agreement for certain pending litigations with the Portofino entities?

Item Summary/Recommendation:

As part of a settlement agreement, accepted in concept by the City Commission on February 25, 2004, a "concept plan" has been developed. The plan would require certain modifications to the Official Zoning Map for a portion of a parcel of land commonly known as the "Federal Triangle," from the current GU, "Government Use," to MR, "Marine Recreation;" and a portion of Lot 18 and the 10 foot strip of land adjacent thereto, and a portion of Lots 29 and 30 and the 10 foot strip of land adjacent thereto, Block 51 from GU, "Government Use," To The Proposed Zoning Classification CPS-1, "Commercial Limited Mixed-Use."

The Administration recommends that the City Commission set a public hearing for the July 28, 2004 meeting to make this determination.

Advisory Board Recommendation:

The Planning Board at its June 22, 2004 meeting made the following Motion: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

Financial Information:

Source of	1 1	Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Mercy Lamazares/Jorge G. Gomez

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	CALC	7225
		100

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

Zoning Map Change

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE OFFICIAL **ZONING DISTRICT MAP, REFERENCED IN SECTION 142-72** OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FOR THE FOLLOWING PARCELS, MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTIONS ATTACHED AS **EXHIBITS HERETO: 1) A PORTION OF A PARCEL OF LAND** THE "FEDERAL TRIANGLE," COMMONLY KNOWN AS APPROXIMATELY 4.178 SQUARE FEET, FROM THE CURRENT GU, "GOVERNMENT USE," TO THE PROPOSED **ZONING CLASSIFICATION MR, "MARINE RECREATION;" AND** 2) A PORTION OF LOT 18 AND THE 10 FOOT STRIP OF LAND ADJACENT THERETO, AND A PORTION OF LOTS 29 AND 30 AND THE 10 FOOT STRIP OF LAND ADJACENT THERETO. **BLOCK 51 OF THE PLAT OF OCEAN BEACH FLA. ADDITION** NO. 3, FROM GU, "GOVERNMENT USE," TO THE PROPOSED **ZONING CLASSIFICATION CPS-1. "COMMERCIAL LIMITED** MIXED-USE."

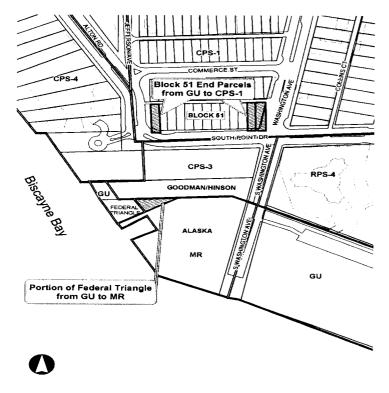
ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission set a public hearing for the July 28, 2004 meeting.

BACKGROUND

After a series of down-zonings citywide in 1998, and the denial of a request in 2001 for the re-zoning of the "Alaska" parcel, a number of the Portofino Entities initiated litigation against the City and the Florida Department of Community Affairs claiming damages and rights under the Bert J. Harris Jr. Private Property Rights Act, other civil rights violations and other relief in Circuit Court, U.S. District Court and the Florida Division of Administrative Hearings.

This zoning map change is necessary because of the transfer of government-owned land in compliance with a proposed "settlement agreement" with the various entities, collectively known as the Portofino entities. The "agreement" contemplates, among other things, resolution of pending litigations in Circuit Court, U.S. District Court and the Florida Division of Administrative Hearings for consideration of a concept plan for the properties known as Alaska, Goodman Terrace, Hinson Parcel, Blocks 51 and 52, and Block 1.



ANALYSIS

The proposed amendments to the zoning map are as follows:

- 1) A portion of a parcel of land commonly known as the "Federal Triangle," approximately 4,178 square feet, from the current GU, "Government Use," to the proposed zoning classification MR, "Marine Recreation;" and
- 2) A portion of lot 18 and the 10 foot strip of land adjacent thereto, and a portion of lots 29 and 30 and the 10 foot strip of land adjacent thereto, Block 51 of the plat of Ocean Beach Florida addition No. 3, from GU "Government use," to the

proposed zoning classification CPS-1, "Commercial limited mixed-use."

The proposed change for a portion of the Federal Triangle from GU to MR would be required because of the proposed exchange for a portion of the Alaska parcel that the City will receive; and will complement the balance of the Alaska parcel and proposed residential use in the adjacent Hinson parcel. With regard to Block 51, it should be noted that City property automatically converts to GU zoning; however, the current zoning map has reflected the parcels as CPS-1 and not GU. Therefore, the proposed changes are already reflected and the proposed ordinance will officially codify the change.

It should be noted that if the concept plan or the settlement agreement reduces the amount of the Federal Triangle that is deeded over, this ordinance may be amended accordingly. Alternatively, if the area deeded to the developer should increase in size, then this ordinance may have to be reconsidered by the Planning Board.

FISCAL IMPACT ANALYSIS

The proposed ordinance will change the zoning map of 4,178 square feet of the Federal Triangle from the current ROS, "Recreational Open Space," to MR, "Marine Recreational." There should be minimal, if any, adverse fiscal impact to the current condition as MR has a maximum FAR of 0.25 as opposed to ROS, which has a maximum FAR of 0.50. The proposed change to Block 51 should also have minimal fiscal impact as this change converts a small portion of public property to private use as part of the settlement agreement and should somewhat increase the future tax base. Furthermore, pursuant to a Settlement Agreement, the City will also receive a large portion of the Alaska Parcel, which will then become public property for the enjoyment and general welfare of the residents of the City.

The Planning Board, as the City's Land Planning Agency, reviewed the proposed ordinance on June 22, 2004 and provided the following comments to the City Commission relative to the Concept Plan and accompanying LDR amendments, recommending adoption of the ordinance. The Design Review Board also reviewed the proposed concept plan on June 15, 2004; their comments are included below.

PLANNING BOARD ACTION

The Board reviewed the items related to the Portofino-related settlement agreement on June 22, 2004 and had the following comments:

Summary of Board Comments:

- Allowing upzoning with a trade of land is in the best interest of the City and mitigates the density increase in other places.
- Concerned about the height of Block 1 as it creates an inconsistency with the rest of the neighborhood. The massing should be at Collins and South Pointe Drive and not distributed throughout the entire block.
- Boat basin filling or leaving as is needs to be looked at again when there is a cohesive plan for the park.
- With respect to commercial uses, there is an anomaly at the base of Portofino Tower if nothing else happens. Some consideration should be given to placing a transitional element at the corner of South Pointe and Alton Road.
- The pedestrian access to the waterfront through Murano should be enhanced to work more like a public access and not a private road.
- There should be a transitional use between the pedestal and the park.
 Residential uses are preferred. Would like to see limited concessionary uses in the park.
- Park uses should not be micromanaged. Important to realize the land trade;
 there should not be large scale commercial uses in the park.
- When the park design and its programmatic uses have been developed, the plan should be brought back to the Planning Board for review.

Points of consensus:

- Importance of land swap to create bigger corridor next to basin.
- Need to redistribute heights and FAR in Block 1 and deal with open court regulations. The open courtyards in concept plan do not enhance the design of structures.
- City's use of development rights at the park's edge should be limited to civic uses and perhaps very limited concessions that are accessory to park uses (rest rooms, roller blade rental, water).
- Need for some transitional element between pedestal and the park.

Points of less unanimity:

- Re-consider distribution of uses on Block 51, in particular uses on Commerce Street, massing and revisiting open court regulations.
- Limited commercial uses along South Pointe Drive on Goodman/Hinson.

Individual concerns:

- Closing alley on Block 1.
- Public access from Alton Road to the park.
- Commercial development on Block 52.

Motion: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

DESIGN REVIEW BOARD COMMENTS

The following is a summary of the comments given by the Design Review Board at the June 15, 2004 meeting regarding the South Pointe Concept Master Plan.

Regarding the City's portion of the Alaska Parcel:

- All members were strongly opposed to filling in the Boat Basin.
- The Boat Basin is a valuable amenity.
- There was a strong consensus against commercial development.
- Available space should be used for a park and green space amenities.

Regarding the developer's portion:

- Residential uses are preferred, with the exception of an accessory restaurant.
- The placement of residential uses on the south side of the parking structure on the Alaska Parcel facing the park is not desirable.

- Architectural development of the parking garage elevations is the preferred method to screen the parking on the Alaska Parcel.
- The safety of the public must be addressed regarding the dead end alley which will be created on Block 52.
- The vehicular bridge connection created on Block 51 is not desirable.

Summary of Collaborative Planning Process Comments relative to Concept Plan:

As provided for in the term sheet approved by the parties on February 25, 2004, and finalized on March 8, 2004, the Concept Plan was to be developed in coordination and collaboration with Neighborhood Representatives. Meetings were held with the Developer and Neighborhood Representatives on March 31, April 7, May 20, June 14, 22 and 28, 2004 in addition to public review at the Design Review Board on June 15, 2004 and at the Planning Board on June 22, 2004.

The DRB and Planning Board recommendations listed above were not adopted as formal amendments to the Land Development Regulations. The City Commission should discuss and consider the recommendations provided by both Boards. If further changes to the Concept Plan are desired, the corresponding policy direction will need to be reflected in the proposed Land Development Regulations before 2nd reading.

In summary, the Concept Plan reflects the following:

Goodman/Hinson/Alaska:

A rounded footprint of the tower and pedestal to be constructed on Goodman/Hinson/Alaska, that allows for an expanded setback of 70 feet from and retention of the boat basin.

The City Commission should address the proposed use of the approximately 9,500 sf of allocated FAR retained by the Developer on the Alaska parcel and determine if:

- a) the Developer retains the 9,500 square feet \pm on the Alaska parcel as permitted marine recreational use to be located at the south side of the tower's parking pedestal, deeding the originally contemplated 80,450 sf of the Alaska parcel to the City, or
- b) implement the preferred neighborhood option which is to re-allocate the 9,500 square feet of FAR on Alaska to be included in the developable FAR within the tower to be constructed on Goodman/Hinson as residential use, (resulting in an increase width of 4 ft on each side of the building) i.e. increasing the permitted FAR from 296,000 square feet to 305,500 square feet, without any increase in the height of the proposed building, and thereby eliminating the 9,500 square feet of potential commercial use by the Developer within the Alaska parcel. In this scenario, the Developer would then increase its contribution of land to the City by an additional 7,100 square feet for a total of approximately 87,550 square feet of land to be deeded to the City.

In either scenario, the City would still retain its development rights for approximately 28,000 square feet of FAR within Alaska; such uses to be determined as part of the planning process for the design and development of South Pointe Park.

Blocks 1, 51 & 52:

The DRB and Planning Board also commented on massing concerns on Block 1 and Block 51 and they discussed the activation of the ground floor (or facades) facing Commerce Street on Block 51 and Collins Avenue on Block 1. The neighborhood sentiment is to limit any further commercialization of the area.

Again, the City Commission should consider any further changes to the Concept Plan and the corresponding policy direction that should be reflected in the proposed Land Development Regulation amendments before 2nd reading.

CONCLUSION

Pursuant to City Code Section 118-164(1), when the proposed amendment to the zoning map involves less than ten contiguous acres notice shall be given by mail to the owners of record of land lying within 375 feet of the land stating the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of such notice shall be kept available for public inspection during the regular business hours of the office of the city clerk. The city commission, upon the conclusion of the public hearing can adopt the ordinance.

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RESOLUTION NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER AMENDING THE OFFICIAL ZONING DISTRICT MAP, REFERENCED IN SECTION 142-72 OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FOR **FOLLOWING** PARCELS, MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTIONS ATTACHED AS EXHIBITS HERETO: 1) A PORTION OF A PARCEL OF LAND COMMONLY KNOWN AS THE "FEDERAL TRIANGLE," APPROXIMATELY 4,178 SQUARE FEET, FROM THE CURRENT GU, "GOVERNMENT USE," TO THE PROPOSED ZONING CLASSIFICATION MR, "MARINE RECREATION;" AND 2) A PORTION OF LOT 18 AND THE 10 FOOT STRIP OF LAND ADJACENT THERETO, AND A PORTION OF LOTS 29 AND 30 AND THE 10 FOOT STRIP OF LAND ADJACENT THERETO, BLOCK 51 OF THE PLAT OF OCEAN BEACH FLA. ADDITION NO. 3, FROM GU, "GOVERNMENT USE," TO THE PROPOSED ZONING CLASSIFICATION CPS-1, "COMMERCIAL LIMITED MIXED-USE."

WHEREAS, East Coastline Development, Ltd. ("East Coastline") and West Side Partners, Ltd. ("West Side"), among others which have initiated litigation against the City of Miami Beach (the "City") and the Department of Community Affairs claiming damages and rights under the Bert J. Harris Jr. Private Property Rights Act, other civil rights violations and other relief in Circuit Court Case No. 98-13274 CA 01(30), and United States District Court Case No. 01-4921-CIV-Moreno, and Florida Divisions of Administrative Hearing Case No. 02-3283GM West Side Partners, Ltd., and

WHEREAS, the Mayor and City Commission have approved a Settlement Agreement, in concept, between the City and East Coastline, West Side and others with respect to the above-noted litigations, pursuant to Resolution No. 2004-25509, adopted on February 25, 2004; and

WHEREAS, that Settlement Agreement provides, among other things, a Concept Plan for the properties known as the Alaska Parcel, the Goodman Terrace and Hinson Parcels, Blocks 51 and 52 and Block 1 (the "Affected Properties"), to be considered by the Mayor and City Commission; and

WHEREAS, the Concept Plan has undergone citizen review and numerous public meetings and workshops through an ad hoc committee of concerned citizens and has also been reviewed by the staff and is being considered for approval by the City Commission; and

WHEREAS, a review of the Concept Plan and the Settlement Agreement indicates the necessity for modifications of the City zoning designations for the following properties: 1) a portion of a parcel of land commonly known as the "Federal Triangle," approximately 4,178 square feet, from the current GU, "Government Use," to the proposed zoning classification MR, "Marine Recreation;" and 2) a portion of lot 18 and the 10 foot strip of land adjacent thereto, and a portion of lots 29 and 30 and the 10 foot strip of land adjacent thereto, Block 51 of the plat of Ocean Beach Florida addition No. 3, from GU "Government use," to the proposed zoning classification CPS-1, "Commercial limited Mixed-Use," in order to effectuate the Concept Plan and the Settlement.

WHEREAS, this Ordinance is being adopted to allow implementation of that Settlement Agreement and Concept Plan through the adoption of certain changes to the zoning designations of the above-noted parcels to permit the developments contemplated in such Agreement and Plan to proceed; and

WHEREAS, these amendments to the Land Development Regulations were not required by the Settlement Agreement but were independently determined and recommended appropriate for adoption by the City staff and the Planning Board, based upon public input after public hearing, following all requirements of procedural due process attendant thereto; and

WHEREAS, full legal descriptions of the Affected Properties are contained in Exhibits attached to this Ordinance, and shortened descriptions of such properties will be codified in the amendments below.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA THAT a public hearing is hereby set to be held before the City Commission on July 28, 2004.

PASSED AND ADOPTED this	day of	, 2004.	
ATTEST:			
CITY CLERK	-		MAYOR
APPROVED AS TO FORM			

Minluh 3-2-1

& LANGUAGE & FOR EXECUTION

F:\PLAN\\$PLB\Portofino items\1668 - zoning map set publ hrg 7-7.DOC

ENTIRE FEDERAL TRIANGLE

LEGAL DESCRIPTION

PARCEL TWO

For a Point of Reference commence at monument "C" as described in Parcel One above, run thence along the northeasterly line of the U. S. Corps of Engineers Reservation, North 65°35'12" West, a distance of 151.63 feet, more or less, to a steel pin set in concrete, designated monument "G"; thence run South 87°38'37" West a distance of 208.58 feet along the northwesterly boundary of the U. S. Corps of Engineers Reservation to monument "West", having coordinates of X-784,093.91 and Y-521,966.52, said point being the Point of Beginning of the tract being described herein.

From said Point of Beginning, run thence South 57°41'41" West, a distance of 226.20 feet to U. S. Corps of Engineers monument "Virgil", having coordinates of X-783,902.72 and Y-521,845.63; thence continue South 57°41'41" West a distance of 4.0 feet, more or less, to the face of an existing steel bulkhead and the approximate north shore of the Entrance Channel to Miami Harbor; thence run Northwesterly along the north shore of Miami Harbor on an approximate bearing of North 32°05'08" West, a distance 132.34' more or less, to a point which lies South 87°38'37" West, a distance of 265.09 feet from monument "West"; thence run North 87°38'37" East along the northwesterly boundary of the U. S. Corps of Engineers Reservation passing thru a concrete monument designated "F" at a distance of 121 feet, more or less, for a total distance of 265.09 feet to monument "West", and the Point of Beginning.

The above-described tract or parcel of land contains 0.35 acre, more or less. The bearings and distances stated herein are based on the Mercator Grid Systems of the East Zone of Florida.

End Parcels

LEGAL DESCRIPTION:

A portion of Lot 18 and the 10 foot walk adjacent thereto, Block 51 of the plat of OCEAN BEACH FLA. ADDITION NO. 3 as recorded in Plat Book 2, Page 81 of the Public Records of Dade County, Florida, more particularly described as follows:

That portion of said Lot 18 and the 10 foot walk adjacent thereto lying Easterly and Northerly of the following described line; begin at a point on the Northerly line of said Lot 18, said point being 0.39 feet Easterly of the Northwesterly corner of said Lot 18; thence S 12'-46'-09" E, parallel with and 0.39 feet Easterly of the Westerly line at said Lot 18 for 74.85 feet to a point of non-tangential curve leading to the left and concave to the Northeast, having a radius of 47.50 feet and whose radius point bears N 68'-24'-46" E; thence Southerly and Easterly through a central angle of 37'-27'-59" for an arc distance of 31.06 feet to a point on the Southerly line of said Lot 18 and on the Northerly line of a 10 foot walkway as shown on said plat of OCEAN BEACH FLA. ADDITION NO. 3, said point being also a point of compound curve having a radius of 45.00 feet; thence Southerly and Easterly through a central angle of 23'-25'-51" for an arc distance of 18.40 feet to a point on the Southerly extension of the Easterly line of said Lot 18, said point being 9.78 feet Southerly of the Southeasterly corner of said Lot 18 and the TERMINAL POINT of the herein described line.

All of the above lying and being in Section 3, Township 54 South, Range 42 East, City of Miami Beach, Dade County, Florida.

LEGAL DESCRIPTION:

A portion of Lots 29 and 30 and the 10 foot walk adjacent thereto, Block 51 of the plat of OCEAN BEACH ADDITION NO. 3 as recorded in Plat Book 2, Page 81 of the Public Records of Dade County, Florida, more particularly described as follows:

Begin at the Northwesterly corner of said Lot 29; thence N 77'-13'-28" E along the Northerly line of said Lots 29 and 30 a distance of 55.15 feet to a point; thence S 00'- 37'-13" W for a distance of 112.35 feet to a point on the Southerly line of a 10 foot walk shown on said plat of OCEAN BEACH ADDITION NO. 3; thence S 76'-52'-58" W along the Southerly line of said 10 foot walk a distance of 31.51 feet to its intersection with the Southerly extension of the Westerly line of said Lot 29; thence N 12'-46'-09" W along the said Southerly extension and along the Westerly line of said Lot 29 a distance of 110.02 feet to the POINT OF BEGINNING.

All of the above lying and being in Section 3, Township 54 South, Range 42 East, City of Miami Beach, Dade County, Florida.

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING PUBLIC HEARINGS TO CONSIDER A COMPLIANCE AGREEMENT PURSUANT TO SECTION 163.3184, FLRIDA STATUTES, AND AMENDING ORDINANCE No. 2002-3370, WHICH CLARIFIED THE TEXT OF THE CITY OF MIAMI BEACH COMPREHENSIVE PLAN CONCERNING THE "MR-MARINE RECREATION" LAND USE DESIGNATION, BY AMENDING PERMITTED USES AND ADDING PROHIBITED USES, AND CLARIFYING THE RELATIONSHIP OF REQUIRED PARKING TO FLOOR AREA WITHIN SUCH DISTRICT.

Issue:

Should the City Commission amend the uses in the Future Land Use category MR "Marine Recreation," of the Comprehensive Plan in order to effectuate a settlement agreement for certain pending litigations with the Portofino entities?

Item Summary/Recommendation:

Pursuant to a settlement agreement, the City Commission will consider amending the text of the MR, "Marine Recreation," Land Use Element of the Comprehensive Plan by including among other permitted uses: parks, bay walks, residential, and required parking for adjacent properties not separated by road or alley, prohibiting other certain uses and to provide that in no case shall the intensity exceed the current floor area ratio (FAR) of 0.25, except that required parking for adjacent properties not separated by road or alley shall not be included in permitted floor area.

The Administration recommends that the City Commission set two public hearings for the July 28, 2004 meeting to make this determination, one for the Compliance Agreement and one for the Comprehsenisve Plan text amendment.

Advisory Board Recommendation:

The Planning Board at its June 22, 2004 meeting made the following Motion: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1		And the second of the second o	1 : : : : • • • • • • • • • • • • • • •
	2			
	3			
İ	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Mercy Lamazares/Jorge G. Gomez

Sign-Offs:

Department Director	Assistant City Manager City Manager
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AGENDA ITEM <u>C75</u>

DATE 7-7-04

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: Comprehensive Plan Text Amendments

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING PUBLIC HEARINGS TO CONSIDER A COMPLIANCE AGREEMENT PURSUANT TO SECTION 163.3184, FLORIDA STATUTES, AND AMENDING ORDINANCE No. 2002-3370, WHICH CLARIFIED THE TEXT OF THE CITY OF MIAMI BEACH COMPREHENSIVE PLAN CONCERNING THE "MR-MARINE RECREATION" LAND USE DESIGNATION, BY AMENDING PERMITTED USES AND ADDING PROHIBITED USES, AND CLARIFYING THE RELATIONSHIP OF REQUIRED PARKING TO

FLOOR AREA WITHIN SUCH DISTRICT.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission set the two public hearings for the July 28, 2004 meeting.

BACKGROUND

The applicant, TRG-Alaska I, Ltd. is requesting to amend the text of the MR, "Marine Recreation," Land Use Element of the Comprehensive Plan by including among other permitted uses: parks, bay walks, residential, and required parking for adjacent properties not separated by road or alley, prohibiting other certain uses and to provide that in no case shall the intensity exceed the current floor area ratio (FAR) of 0.25, except that required parking for adjacent properties not separated by road or alley shall not be included in permitted floor area.

In 1994, there was a proposal to reclassify and rezone this parcel from a Future Land Use category of MR to C-PS3. At the time of second reading, the City Commission did not approve the change and subsequent to the hearing in which the change was denied, MR was inadvertently not re-instated in the text of the Comprehensive Plan. On May 29, 2002, the City Commission of the City of Miami Beach adopted Ordinance No. 2002-3370, which amended the text of the City of Miami Beach Comprehensive Plan by adding a description of acceptable uses and densities and intensities of use, among other things, to the Future Land Use Element (FLUE), for certain property within the City that is designed "MR" (Marine Recreation) on the Future Land Use Map

(FLUM) of the City. This text amendment cured that scrivener's error and was approved by the Florida Department of Community Affairs. The Notice of Intent to find the plan amendment in compliance was published in the Miami Herald on July 19, 2002.

Thereafter, East Coastline Development, Ltd., pursuant to Section 163.3184(9) of Florida Statutes, initiated an administrative challenge to that Ordinance in the case styled <u>East Coastline Development</u>, Ltd. vs. City of Miami Beach and the Florida <u>Department of Community Affairs</u>, Case No. 02-3283GM, one of the various judicial challenges filed by the Portofino Entities.

The proposed amendment to the text of the MR, "Marine Recreation," seeks to avoid the expense, delay, and uncertainty of lengthy litigation and to resolve this proceeding which is believed to be in the mutual best interests of both parties.

ANALYSIS

The proposed ordinance to change the text of the MR, Marine Recreation land use element of the City's Comprehensive Plan is the result of a proposed settlement of litigation against the City and the Department of Community Affairs by one or more of the Portofino Entities. The background information for this particular case is listed on the first page of this report. The means by which this case would be settled is through a "Compliance Agreement," which would be advertised in accordance with Florida law, section 163.3184(16), Florida Statutes, and presented to the City Commission for consideration on July 28 at a public hearing, after which the City Commission will hold a public hearing to consider the text amendment itself.

This proposed text amendment adds recreational facilities and accessory uses to the purpose of the element; and adds parks, bay walks, public facilities, residential uses and required parking for adjacent properties as permitted uses. It also includes a prohibition for dance halls and entertainment establishments in this FLUE. The existing FAR of 0.25 does not change. There is proposed an exemption for the required parking for adjacent properties, which would not be included in permitted floor area.

As part of the settlement agreement with the Portofino Entities, the City will receive a portion of the "Alaska" parcel. The proposed amendment to the text of the FLUE will accomplish the parking needs of the adjacent property owner in accordance with the settlement agreement and at the same time benefit the city by adding other uses such as bay walks and public facilities, and prohibiting others such as dance halls and entertainment establishments.

FISCAL IMPACT ANALYSIS

The proposed ordinance should have a minimal, if any, adverse fiscal impact to the current condition as MR at the present time. In the future, the proposed text changes will facilitate the development of the area, inclusive of South Pointe Park, for public use.



The Planning Board, as the City's Land Planning Agency, reviewed the proposed ordinance on June 22, 2004 and provided the following comments to the City Commission relative to the Concept Plan and accompanying LDR amendments, recommending adoption of the ordinance. The Design Review Board also reviewed the proposed concept plan on June 15, 2004; their comments are included below.

PLANNING BOARD ACTION

The Board reviewed the items related to the Portofino-related settlement agreement on June 22, 2004 and had the following comments:

Summary of Board Comments:

- Allowing upzoning with a trade of land is in the best interest of the City and mitigates the density increase in other places.
- Concerned about the height of Block 1 as it creates an inconsistency with the rest of the neighborhood. The massing should be at Collins and South Pointe Drive and not distributed throughout the entire block.
- Boat basin filling or leaving as is needs to be looked at again when there is a cohesive plan for the park.
- With respect to commercial uses, there is an anomaly at the base of Portofino Tower if nothing else happens. Some consideration should be given to placing a transitional element at the corner of South Pointe and Alton Road.
- The pedestrian access to the waterfront through Murano should be enhanced to work more like a public access and not a private road.
- There should be a transitional use between the pedestal and the park.
 Residential uses are preferred. Would like to see limited concessionary uses in the park.
- Park uses should not be micromanaged. Important to realize the land trade;
 there should not be large scale commercial uses in the park.
- When the park design and its programmatic uses have been developed, the plan should be brought back to the Planning Board for review.

Points of consensus:

- Importance of land swap to create bigger corridor next to basin.
- Need to redistribute heights and FAR in Block 1 and deal with open court regulations. The open courtyards in concept plan do not enhance the design of structures.
- City's use of development rights at the park's edge should be limited to civic uses and perhaps very limited concessions that are accessory to park uses (rest rooms, roller blade rental, water).
- Need for some transitional element between pedestal and the park.



Points of less unanimity:

- Re-consider distribution of uses on Block 51, in particular uses on Commerce Street, massing and revisiting open court regulations.
- Limited commercial uses along South Pointe Drive on Goodman/Hinson.

Individual concerns:

- Closing alley on Block 1.
- Public access from Alton Road to the park.
- Commercial development on Block 52.

<u>Motion</u>: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

DESIGN REVIEW BOARD COMMENTS

The following is a summary of the comments given by the Design Review Board at the June 15, 2004 meeting regarding the South Pointe Concept Master Plan.

Regarding the City's portion of the Alaska Parcel:

- All members were strongly opposed to filling in the Boat Basin.
- The Boat Basin is a valuable amenity.
- There was a strong consensus against commercial development.
- Available space should be used for a park and green space amenities.

Regarding the developer's portion:

- Residential uses are preferred, with the exception of an accessory restaurant.
- The placement of residential uses on the south side of the parking structure on the Alaska Parcel facing the park is not desirable.
- Architectural development of the parking garage elevations is the preferred method to screen the parking on the Alaska Parcel.
- The safety of the public must be addressed regarding the dead end alley which will be created on Block 52.
- The vehicular bridge connection created on Block 51 is not desirable.

Summary of Collaborative Planning Process Comments relative to Concept Plan:

As provided for in the term sheet approved by the parties on February 25, 2004, and finalized on March 8, 2004, the Concept Plan was to be developed in coordination and collaboration with Neighborhood Representatives. Meetings were held with the Developer and Neighborhood Representatives on March 31, April 7, May 20, June 14, 22 and 28, 2004 in addition to public review at the Design Review Board on June 15, 2004 and at the Planning Board on June 22, 2004.



The DRB and Planning Board recommendations listed above were not adopted as formal amendments to the Land Development Regulations. The City Commission should discuss and consider the recommendations provided by both Boards. If further changes to the Concept Plan are desired, the corresponding policy direction will need to be reflected in the proposed Land Development Regulations before 2nd reading.

In summary, the Concept Plan reflects the following:

Goodman/Hinson/Alaska:

A rounded footprint of the tower and pedestal to be constructed on Goodman/Hinson/Alaska, that allows for an expanded setback of 70 feet from and retention of the boat basin.

The City Commission should address the proposed use of the approximately 9,500 sf of allocated FAR retained by the Developer on the Alaska parcel and determine if:

- a) the Developer retains the 9,500 square feet \pm on the Alaska parcel as permitted marine recreational use to be located at the south side of the tower's parking pedestal, deeding the originally contemplated 80,450 sf of the Alaska parcel to the City, or
- b) implement the preferred neighborhood option which is to re-allocate the 9,500 square feet of FAR on Alaska to be included in the developable FAR within the tower to be constructed on Goodman/Hinson as residential use, (resulting in an increase width of 4 ft on each side of the building) i.e. increasing the permitted FAR from 296,000 square feet to 305,500 square feet, without any increase in the height of the proposed building, and thereby eliminating the 9,500 square feet of potential commercial use by the Developer within the Alaska parcel. In this scenario, the Developer would then increase its contribution of land to the City by an additional 7,100 square feet for a total of approximately 87,550 square feet of land to be deeded to the City.

In either scenario, the City would still retain its development rights for approximately 28,000 square feet of FAR within Alaska; such uses to be determined as part of the planning process for the design and development of South Pointe Park.

Block 1, 51 & 52:

The DRB and Planning Board also commented on massing concerns on Block 1 and Block 51 and they discussed the activation of the ground floor (or facades) facing Commerce Street on Block 51 and Collins Avenue on Block 1. The neighborhood sentiment is to limit any further commercialization of the area.

Again, the City Commission should consider any further changes to the Concept Plan and the corresponding policy direction that should be reflected in the proposed Land Development Regulation amendments before 2nd reading.



CONCLUSION

The request is to set public hearings to consider a compliance agreement and an amendment to the Goals, Policies and Objectives, of the Comprehensive Plan. Chapter 163.3184 F.S. requires that the local governing body hold one advertised public hearing for the compliance agreement, and then a public hearing for the comprehensive Plan text amendment. The public hearing shall be held at least 10 days after the day that the advertisement is published.

Under Section 163.3184(16), Florida Statutes, the Comprehensive Plan text amendment approved pursuant to the Compliance Agreement, is exempt from the traditional requirements of Sections 163.3184(2)-(7), including the usual procedures of transmittal; intergovernmental review; regional, county and municipal review; state land planning agency review; and local government review of comments. Instead, the local government adopts the Compliance Agreement, and then adopts the amendment, both after public hearings. The local government then circulates the approved Compliance Agreement for execution, and transmits the amendment to the state land planning agency, which has 30 days to determine whether it is in compliance with state law. The agency transmits its notice of intent to the parties, and the State Administrative Law Judge. The City publishes the notice of intent and any interested party will have 21 days to challenge the amendment. If no challenge is filed, the case is dismissed, and the amendment becomes final.

JMG/CMC/JGG/ML
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RESOLUTION NO),
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A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH. FLORIDA, SETTING PUBLIC HEARINGS TO CONSIDER A COMPLIANCE **AGREEMENT** PURSUANT TO SECTION 163.3184, FLORIDA STATUTES, AND AMENDING ORDINANCE NO. 2002-3370, WHICH CLARIFIED THE TEXT OF THE CITY OF MIAMI BEACH COMPREHENSIVE PLAN CONCERNING THE "MR-MARINE RECREATION" DESIGNATION, LAND USE BY **AMENDING** PERMITTED USES AND ADDING PROHIBITED USES, AND CLARIFYING THE RELATIONSHIP OF REQUIRED PARKING TO FLOOR AREA WITHIN SUCH DISTRICT.

WHEREAS, on May 29, 2002, the City Commission of the City of Miami Beach adopted Ordinance No. 2002-3370, which amended the text of the City of Miami Beach Comprehensive Plan by adding a description of acceptable uses and densities and intensities of use, among other things, for certain property within the City that is designated "MR" (Marine Recreation) on the Future Land Use Map of the City; and

WHEREAS, thereafter, East Coastline Development, Ltd., pursuant to Section 163.3184(9) of Florida Statutes, initiated an administrative challenge to that Ordinance in the case styled <u>East Coastline Development</u>, Ltd. vs. City of Miami Beach and the Florida Department of Community Affairs, Case No. 02-3283GM; and

WHEREAS, both the City and East Coastline desire, without either admitting or denying any legal positions in the administrative proceeding, to avoid the expense, delay, and uncertainty of lengthy litigation and to resolve this proceeding under the terms set forth herein, and agree it is in their respective mutual best interests to do so and have agreed on a "Remedial Amendment" to the previously adopted text amendment; and

WHEREAS, pursuant to Section 163.3184(16), Florida Statutes, a proposed Compliance Agreement is submitted for consideration by the Miami Beach City Commission at a public hearing advertised at least 10 days prior to the hearing in a newspaper of general circulation in the manner prescribed for such advertisements in Section 163.3184(15)(c), Florida Statutes; and

WHEREAS, pursuant to and following adoption of the Compliance Agreement an amendment to the text of the City's Comprehensive Plan is submitted for consideration by the City Commission at a public hearing.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA THAT public hearings are authorized to be set on the proposed Compliance Agreement and accompanying Comprehensive Plan Text Amendment to be held before the City Commission on July 28, 2004.

PASSED AND ADOPTED this	day of	, 2004.	
ATTEST:			
CITY CLERK			MAYOR
APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION			

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Condensed Title:

A Resolution of the Mayor an City Commission of the City & Miami Beach, Florida, setting a public hearing to consider a request by TRG-Alaska I Ltd., and TRG-Alaska III, LIC., to amend the Portofino Development of Regional Impact (DRI) Development Order, as adopted by the City of Miami Beach Ordinance No. 98-3121, by 1) Filling and bulkheading the existing boat basin on the Alaska Parcel; and 2) adding approximately 7,200 square feet of lands to the DRI.

issue:

At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review.

Item Summary/Recommendation:

If the City determines that the proposed change does not require further review and is otherwise approved, an amendment to the development order incorporating the approved change and conditions of approval relating to the change shall be issued.

The Administration recommends that the City Commission set a public hearing for the July 28, 2004 meeting to make this determination.

Advisory Board Recommendation:

The Planning Board at its June 22, 2004 meeting made the following Motion: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

Financial Information:

Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Mercy Lamazares/Jorge G. Gomez

Sign-Offs:

Department Director	Assistant City Manager	City Manager
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CITY OF MIAMI BEACH





Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez (

City Manager

Subject:

Portofino DRI - Notice of Proposed Change

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER A REQUEST BY TRG-ALASKA I LTD., AND TRG-ALASKA III, LLC., TO AMEND THE PORTOFINO DEVELOPMENT OF REGIONAL IMPACT (DRI) DEVELOPMENT ORDER, AS ADOPTED BY CITY OF MIAMI BEACH ORDINANCE NO. 98-3121, BY 1) FILLING AND BULKHEADING THE EXISTING BOAT BASIN ON THE ALASKA PARCEL AND 2) ADDING APPROXIMATELY 7,200 SQUARE

FEET OF LANDS TO THE DRI.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission set a public hearing for the July 28, 2004 meeting.

BACKGROUND

The applicants, TRG-Alaska I Ltd., and TRG-Alaska III, LLC, are requesting to amend the Portofino Development of Regional Impact (DRI) Development Order, as adopted by City of Miami Beach Ordinance No. 98-3121, as follows:

- Fill and bulkhead existing slip (boat basin) located on the Alaska Parcel; and
- Add approximately 7,200 square feet of lands purchased within ¼ mile of the original DRI.

PROCEDURE

Pursuant to Chapter 380.06(19)(f), Florida Statutes, the procedure to approve a Notice of Proposed Change (NOPC) to a previously approved DRI development order is as follows:



- The developer submits copies simultaneously to the local government, the Regional Planning Council (RPC), and the Florida Department of Community Affairs (DCA) the request for approval of a proposed change.
- No sooner than 30 days but no later than 45 days after submittal by the developer, the City shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation.

This request was submitted on May 17, 2004 for review by the Planning Board. Notice of a public hearing before the Planning Board was published in the Neighbors Section of the Miami Herald on June 6, 2004. In addition to that publication, the notice of public hearing was mailed to property owners within 375 feet of the subject locations on May 21, 2004 for the June 22, 2004 Planning Board public hearing.

 The RPC or DCA will review the proposed NOPC and advise the City in writing whether it objects to the NOPC, and specify the reasons for its objection, if any.

This notification has not been received as of the writing of this request to set a public hearing before the City Commission.

• The public hearing must be held within 90 days after submittal of the NOPC, unless that time is extended by the developer. Most cities also have the Planning Board make a recommendation on the proposed amendment, although not statutorily required.

The public hearing will be held within this time frame.

- At the public hearing, the City must determine whether the proposed change requires further DRI review based upon the criteria for a substantial deviation.
- If the City determines that the proposed change does not require further DRI review and is otherwise approved, the City shall issue an amendment to the development order (in the form of a resolution or ordinance) incorporating the approved change and conditions of approval.
- The approved development order is then transmitted to DCA and once received, there is a 45-day appeal period during which only the owner, developer or DCA can appeal (see Sec. 380.07, F.S.)

<u>ANALYSIS</u>

At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. In reviewing the criteria contained within Sec. 380.06(f)(19) F.S., the Administration believes that:



- The proposed change to the previously approved development does not create a reasonable likelihood of additional regional impact review.
- The proposed change to the development order is less than the criteria specified in Sec. 380.06, F.S.
- The proposed change is not an extension of the date of buildout.
- The proposed change is not resulting from requirements imposed by the Department of Environmental Protection or any water management district.
- The proposed change increases the acreage in the development, and according to the criteria in the Florida Statutes, it is presumed that it will create a substantial deviation. This presumption may be rebutted by clear and convincing evidence. However, the additional land that is being added to the DRI development order is innocuous.

With regard to the request to add 7,200 square feet of newly acquired land to the original DRI, staff believes the additional square footage is innocuous; the two separate parcels, one in Block 51 and the other in Block 52, will fill a gap in the DRI area as they are flanked by DRI properties.

With regard to the boat basin the applicant has already started the process by submitting applications to the regulatory agencies that would have to approve the project. The developers certainly have that option as owners of the land. Once the concept plan is approved, the settlement agreement signed and the proposed portion of the Alaska parcel inclusive of the boat basin is deeded to the City, the plans is to have an RFP for the design of the entire area, including South Pointe Park. At that time a decision can be made for the use of the boat basin and whether it should be filled, redesigned or incorporated into the park in some other manner.

The Planning Board, as the City's Land Planning Agency, reviewed the proposed ordinance on June 22, 2004 and provided the following comments to the City Commission relative to the Concept Plan and accompanying LDR amendments, recommending adoption of the ordinance. The Design Review Board also reviewed the proposed concept plan on June 15, 2004; their comments are included below.

PLANNING BOARD ACTION

The Board reviewed the items related to the Portofino-related settlement agreement on June 22, 2004 and had the following comments:

Summary of Board Comments:

 Allowing upzoning with a trade of land is in the best interest of the City and mitigates the density increase in other places.

- Concerned about the height of Block 1 as it creates an inconsistency with the rest of the neighborhood. The massing should be at Collins and South Pointe Drive and not distributed throughout the entire block.
- Boat basin filling or leaving as is needs to be looked at again when there is a cohesive plan for the park.
- With respect to commercial uses, there is an anomaly at the base of Portofino Tower if nothing else happens. Some consideration should be given to placing a transitional element at the corner of South Pointe and Alton Road.
- The pedestrian access to the waterfront through Murano should be enhanced to work more like a public access and not a private road.
- There should be a transitional use between the pedestal and the park.
 Residential uses are preferred. Would like to see limited concessionary uses in the park.
- Park uses should not be micromanaged. Important to realize the land trade; there should not be large scale commercial uses in the park.
- When the park design and its programmatic uses have been developed, the plan should be brought back to the Planning Board for review.

Points of consensus:

- Importance of land swap to create bigger corridor next to basin.
- Need to redistribute heights and FAR in Block 1 and deal with open court regulations. The open courtyards in concept plan do not enhance the design of structures.
- City's use of development rights at the park's edge should be limited to civic uses and perhaps very limited concessions that are accessory to park uses (rest rooms, roller blade rental, water).
- Need for some transitional element between pedestal and the park.

Points of less unanimity:

- Re-consider distribution of uses on Block 51, in particular uses on Commerce Street, massing and revisiting open court regulations.
- Limited commercial uses along South Pointe Drive on Goodman/Hinson.

Individual concerns:

- Closing alley on Block 1.
- Public access from Alton Road to the park.
- Commercial development on Block 52.

<u>Motion</u>: Summarize comments, create a model that shows massing of the concept plan and recommend approval of proposed settlement agreement. Unanimously approved 5-0.

DESIGN REVIEW BOARD COMMENTS

The following is a summary of the comments given by the Design Review Board at the June 15, 2004 meeting regarding the South Pointe Concept Master Plan.

Regarding the City's portion of the Alaska Parcel:

- All members were strongly opposed to filling in the Boat Basin.
- The Boat Basin is a valuable amenity.
- There was a strong consensus against commercial development.
- Available space should be used for a park and green space amenities.

Regarding the developer's portion:

- Residential uses are preferred, with the exception of an accessory restaurant.
- The placement of residential uses on the south side of the parking structure on the Alaska Parcel facing the park is not desirable.
- Architectural development of the parking garage elevations is the preferred method to screen the parking on the Alaska Parcel.
- The safety of the public must be addressed regarding the dead end alley which will be created on Block 52.
- The vehicular bridge connection created on Block 51 is not desirable.

Summary of Collaborative Planning Process Comments relative to Concept Plan:

As provided for in the term sheet approved by the parties on February 25, 2004, and finalized on March 8, 2004, the Concept Plan was to be developed in coordination and collaboration with Neighborhood Representatives. Meetings were held with the Developer and Neighborhood Representatives on March 31, April 7, May 20, June 14, 22 and 28, 2004 in addition to public review at the Design Review Board on June 15, 2004 and at the Planning Board on June 22, 2004.

The DRB and Planning Board recommendations listed above were not adopted as formal amendments to the Land Development Regulations. The City Commission should discuss and consider the recommendations provided by both Boards. If further changes to the Concept Plan are desired, the corresponding policy direction will need to be reflected in the proposed Land Development Regulations before 2nd reading.

In summary, the Concept Plan reflects the following:

Goodman/Hinson/Alaska:

A rounded footprint of the tower and pedestal to be constructed on Goodman/Hinson/Alaska, that allows for an expanded setback of 70 feet from and retention of the boat basin.

The City Commission should address the proposed use of the approximately 9,500 sf of allocated FAR retained by the Developer on the Alaska parcel and determine if:

- a) the Developer retains the 9,500 square feet <u>+</u> on the Alaska parcel as permitted marine recreational use to be located at the south side of the tower's parking pedestal, deeding the originally contemplated 80,450 sf of the Alaska parcel to the City, or
- b) implement the preferred neighborhood option which is to re-allocate the 9,500 square feet of FAR on Alaska to be included in the developable FAR within the tower to be constructed on Goodman/Hinson as residential use, (resulting in an increase width of 4 ft on each side of the building) i.e. increasing the permitted FAR from 296,000 square feet to 305,500 square feet, without any increase in the height of the proposed building, and thereby eliminating the 9,500 square feet of potential commercial use by the Developer within the Alaska parcel. In this scenario, the Developer would then increase its contribution of land to the City by an additional 7,100 square feet for a total of approximately 87,550 square feet of land to be deeded to the City.

In either scenario, the City would still retain its development rights for approximately 28,000 square feet of FAR within Alaska; such uses to be determined as part of the planning process for the design and development of South Pointe Park.

Blocks 1, 51 & 52:

The DRB and Planning Board also commented on massing concerns on Block 1 and Block 51 and they discussed the activation of the ground floor (or facades) facing Commerce Street on Block 51 and Collins Avenue on Block 1. The neighborhood sentiment is to limit any further commercialization of the area.

Again, the City Commission should consider any further changes to the Concept Plan and the corresponding policy direction that should be reflected in the proposed Land Development Regulation amendments before 2nd reading.

CONCLUSION

Pursuant to Section 380.06(19)(f)3., the City of Miami Beach shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 90 days after submittal of the proposed changes, unless that time is extended by the developer.

If the City determines that the proposed change does not require further review and is otherwise approved, an amendment to the development order incorporating the approved change and conditions of approval relating to the change shall be issued. Copies of such orders shall be transmitted to the DCA, the RPC, and the owner or developer of the property affected by such order.

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RESOLUTION NO.	
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A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER A REQUEST BY TRG-ALASKA I LTD., AND TRG-ALASKA III, LLC., TO AMEND THE PORTOFINO DEVELOPMENT OF REGIONAL IMPACT (DRI) DEVELOPMENT ORDER, AS ADOPTED BY CITY OF MIAMI BEACH ORDINANCE NO. 98-3121, BY 1) FILLING AND BULKHEADING THE EXISTING BOAT BASIN ON THE ALASKA PARCEL AND 2) ADDING APPROXIMATELY 7,200 SQUARE FEET OF LANDS TO THE DRI.

WHEREAS, pursuant to chapter 380.06(19)(f), Florida Statues, the procedure to approve a Notice of Proposed Change (NOPC) to a previously approved DRI development order requires the developer to submit copies of the request for approval of a proposed change simultaneously to the local government, the Regional Planning Council (RPC), and the Florida Department of Community Affairs (DCA).; and

WHEREAS, the City shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation no sooner than 30 days but no later than 45 days after submittal by the developer; and

WHEREAS, the public hearing must be held within 90 days after submittal of the NOPC, unless that time is extended by the developer. Most cities also have the Planning Board make a recommendation on the proposed amendment, although not statutorily required; and

WHEREAS, at the public hearing, the City must determine whether the proposed change requires further DRI review based upon the criteria for a substantial deviation; and

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA THAT a public hearing is hereby set to be held before the City Commission on July 28, 2004.

PASSED AND ADOPTED this	day of, 2004.
ATTEST:	
CITY CLERK	MAYOR

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney ga Date

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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A Resolution Terminating South Dade Electrical's Existing Contract and Standing Orders thereto; and Further Disqualifying South Dade Electrical from serving as a Vendor with the City until November 19, 2004, Pursuant to Section 2-487 A(3) Miami Beach City Code.

Issue:

Shall the City Commission Terminate South Dade Electrical's Existing Contract and Disqualify them through November 19, 2004?

Item Summary/Recommendation:

Pursuant to the City's Vendor Campaign Prohibition Ordinance (the "Ordinance"), the City Attorney's office advise that South Dade Lighting's contribution to a candidate who has been elected to the office of Commissioner, would be considered an indirect contributions by South Dade Electrical. Indirect contributions by an individual or entity are prohibited by the Ordinance. The basis for the indirect contribution ruling is that the same individuals with a controlling financial interest in South Dade Lighting have a controlling interest in South Dade Electrical.

On November 25, 2003, the City Commission awarded a contract to South Dade Electrical pursuant to Invitation to Bid No. 12-02/03, for the purchase of electrical supplies. As a result of the contract award six (6) Standing Order were issued.

The Administration cannot justify a best economic interest waiver, since there are seven (7) other vendors that were awarded contracts and can provide electrical supplies at comparable pricing to South Dade Electrical.

N/A	Recommen			
nancial Inform	ation:			
Source of		Amount	Account	Approved
Funds:	1			
	2			
	3			
	4			
				l l

Sign-Offs:		
Department Director	Assistant City Manager	City Manager
GL	PDW	JMG
T:\AGE\DA\2004\Jul0704	Consent\SouthDadeSummary	doc

AGENDA ITEM <u>C74</u>

DATE 7-7-04

Gus Lopez, ext. 6641

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, TERMINATING SOUTH DADE ELECTRICAL'S EXISTING CONTRACT WITH THE CITY AND ALL STANDING ORDER THERETO; AND FURTHER DISQUALIFYING SOUTH DADE ELECTRICAL FROM SERVING AS A VENDOR WITH THE CITY UNTIL NOVEMBER 19, 2004, PURSUANT TO SECTION 2-487 A(3) OF

THE MIAMI BEACH CITY CODE

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

On January 8, 2003, the Mayor and City Commission passed and adopted Ordinance No. 2003-3389, which amended Miami Beach City Code Chapter 2; Article VII by creating Division 5 thereof entitled "Campaign Finance Reform", and further amended City Code Section 38-6 entitled "Prohibited Campaign Contributions by Vendors". Section 38-6 was also renumbered to Section 2-487.

Section 2-487 A(3) of the Miami Beach City Code ("City Code") was amended to include the following <u>underscored words:</u>

A person <u>or entity</u> who directly or <u>indirectly</u> makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from <u>serving as a vendor</u> with the city.

On May 26, 2004, the Mayor and City Commission passed and adopted Ordinance No. 2004-3446, which defined the term "disqualified" to include:

- 1. Termination of a donor/vendor's existing contract with the City, subject to waiver provision of Section 2-487B(4); and
- 2. Disqualification of a donor's response to solicitation requests for prospective vendor contracts with the City, subject to waiver provision of Section 2-487 B(1)(2) and (3) of the Miami Beach City Code.

Pursuant to the City's Vendor Campaign Prohibition Ordinance (the "Ordinance"), the City Attorney's office advise that South Dade Lighting's contribution to a candidate who has been elected to the office of Commissioner, would be considered an indirect contributions by South Dade Electrical. Indirect contributions by an individual or entity are prohibited by the Ordinance. The basis for the indirect contribution ruling is that the same individuals with a controlling financial interest in South Dade Lighting have a controlling interest in South Dade Electrical.

On November 25, 2003, the City Commission awarded a contract to South Dade Electrical pursuant to Invitation to Bid No. 12-02/03, for the purchase of electrical supplies. As a result of the contract award, the following Standing Orders were issued:

- Standing Order 22714 was issued in the amount of \$60,000
- Standing Order 22715 was issued in the amount of \$80,000
- Standing Order 22716 was issued in the amount of \$50,000
- Standing Order 22717 was issued in the amount of \$15,000
- Standing Order 22718 was issued in the amount of \$20,000
- Standing Order 22616 was issued in the amount of \$55,000 \$280.000

The Administration cannot justify a best economic interest waiver, since there are seven (7) other vendors that were awarded contracts and can provide electrical supplies at comparable pricing to South Dade Electrical.

CONCLUSION

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida, terminate South Dade Electrical's existing contract with the City and all Standing Orders thereto; and further disqualify South Dade Electrical from serving as a vendor with the City until November 19, 2004, pursuant to Section 2-487 A(3) of the Miami Beach City Code.

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RESOLUTION TO BE SUBMITTED

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CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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LO	nae	nsed	l liti	ıe:

A Resolution authorizing the execution of a Memorandum of Agreement with Miami-Dade County, wherein the County agrees to reimburse the City for the design, permitting, provision and installation of standard mast-arm traffic signals on Washington Ave. at 11th, 12th, 13th and 14th Streets, in an amount not to exceed \$354,011; and further authorizing the advancement of \$354,011 in City funds for subsequent reimbursement by the County.

Issue:

Shall the City execute a Memorandum of Agreement with the County for the purpose above stated?

Item Summary/Recommendation:

The City has identified the need for such traffic signal upgrading to be done concurrently with the City's Washington Avenue Improvements Project. Ric-Man International, the City contractor for the Washington Ave. project prepared the \$354,011 cost proposal, which, was submitted by the City to the County for review. Upon negotiations, the County agreed to fund the design, permitting, provision and installation of the mast-arm traffic signals at the four proposed intersections, pending approval and execution of the attached Memorandum of Agreement. The Administration recommends approval of the Resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of		Amount	Account	Approved
Funds:	1	\$354,011.00	City funds to be reimbursed by	
	2		County funds	
	3			
	4			-
Finance Dept.	Total	\$354,011.00		-

City Clerk's Office Legislative Tracking:

Robert Halfhill

Sign-Offs:

Department Director	Assistant City Manager	City Manager
EIN		<u>N</u>
MA A		1 are ~

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To: Mayor David Dermer and

Members of the City Commission

From: Jorge M. Gonzalez ↑

City Manager

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY

OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI BEACH, WHEREIN THE COUNTY AGREES TO REIMBURSE THE CITY FOR THE DESIGN, PERMITTING, PROCUREMENT AND INSTALLATION OF STANDARD MAST-ARM SIGNALIZATION SYSTEMS AT THE INTERSECTIONS OF WASHINGTON AVENUE AT 11TH, 12TH, 13TH AND 14TH STREETS, IN AN AMOUNT NOT TO EXCEED \$354,011; AND FURTHER AUTHORIZING THE ADVANCEMENT OF \$354,011 IN CITY FUNDS FOR SUBSEQUENT REIMBURSEMENT BY THE COUNTY

FUNDS.

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

Under the County Road Inspect Fee program, the County had planned to install new standard mast-arm signalization systems at the intersections of Washington Avenue at 11th, 12th, 13th, and 14th Streets; however, the County's project timeline did not match the construction schedule for the City's Washington Avenue Improvement Project. The City initiated discussion with the County to see if both projects could be coordinated and managed by the City under one contract. Negotiations between Miami Beach and Miami-Dade County have produced a commitment by the County to reimburse the City for the design, permitting, procurement and installation of mast-arm signals at four Washington Avenue intersections, respectively at 11th, 12th, 13th and 14th Streets. Ric-Man International, the City contractor for the improvement project for the Washington Avenue Corridor, has proposed to upgrade the traffic signals for \$354,011. This work will be added as a change order to Ric-Man's contract with the City. A formal Memorandum of Agreement must be executed with the County for these funds.

The following documents are attached hereto as reference:

• Ric-Man's cost proposal of \$354,011 to design-build the installation of standard traffic mast-arm signals at the intersection of Washington Avenue at 11th, 12th, 13th,

and 14th Streets;

- County-proposed Memorandum of Agreement; and
- Proposed City Resolution.

The Administration recommends approval of the Resolution.

JG/RM/FB/RH/AJ

T:\AGENDA\2004\Jul0704\Consent\Washington Mast-Arm Signals memo.doc





2601 N.W. 48th Street • Pompano Beach, Florida 33073 BROWARD: (954) 426-1042 • FAX: (954) 426-0717

June 3, 2004

Mr. Charles Carreno Project Manager Hazen and Sawyer 4000 Hollywood Blvd. Hollywood, Florida

Re: Washington Avenue Phase 2, 4, & 5

Mr. Carreno:

HAZEN AND SAWYER, P.C. Mismi Beach, Florida

3 2004

JOB No.

As per your request, Ric-Man International is hereby providing an estimated for the design, permitting and installation of Miami-Dade County standard mast-arm signalization systems on Washington Avenue and 11th, 12th, 13th, and 14th Streets. These services are to be performed concurrently with the Washington Avenue Improvement Project presently underway.

The total estimated cost to design, permit, furnish and install the four systems is \$ 354,011.00. This cost estimate is valid for 60 days from the date of letter.

The breakdown is as follows:

Prepare design plans for four Mast-arm intersection 34,500.00 Coordinate and Permit construction plans with MDPW 9,200.00 Furnish and install four intersection signalization systems \$ 300,000.00

> Cost of Design, permit, and construction \$ 343,700.00 3% bond \$ 10,311.00

Total cost of alternate light fixture \$ 354.011.00

If you have any questions on this matter, please contact me at your convinience.

Sincerely,

Albert Dominguez, P.E.

Project Manager

Ric-Man International

RESOLUTION TO BE SUBMITTED

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



Ca	nden	sed	Title:

A Resolution calling a public hearing to consider public comments, as required by Ordinance no. 92-2783, regarding the vacation of a portion of West 59th Street street-end, west of North Bay Road, in favor of Roger Schindler and wife Leslie, owners of the adjacent property located at 5860 North Bay Road.

Issue

Shall a public hearing be scheduled to consider vacation of a portion of West 59th Street street-end, west of North Bay Road?

Item Summary/Recommendation:

Advisory Board Recommendation:

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City right-of-ways have been vacated previously by criteria established by the City in 1989 and City Code, Chapter 82, Article II, Section 82-37. When originally platted, 56th and 59th Street street-ends were unique situations, in that the extreme ends of the streets at the bay are privately owned by the adjacent property owners. The City Commission on March 20, 2002, following the recommendation of the Land Use and Development Committee, directed the vacating of West 56th and West 59th Streets from North Bay Road to the privately owned street-end, to the adjacent property owners, while maintaining all the necessary utility easements. The property owners adjacent to West 59th Street street-end have complied with the vacation application requirements by submitting the application fee and providing a list of affected property owners. This application was delayed while the City reviewed the authority and procedure for vacating or disposing of public right-of-ways and property. The Finance and Citywide Projects Committee on June 9, 2004 requested the Administration treat each applicant on a case by case basis.

Administration recommends approval of the Resolution.

Source of		Amount	Account	Approve
Funds:	1			
	2			
	3			
	4			
Finance Dept.	Total			
t y Clerk's Offic obert T. Halfhill	e Legislativ	e Tracking:		

AGENDA ITEM	C7W
DATE	7-7-04

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

) mg

Subject:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING FOR JULY 28, 2004 TO CONSIDER PUBLIC COMMENT, AS REQUIRED BY SECTION 82-37 OF THE CITY CODE (ORDINANCE NO. 92-2783), REGARDING THE VACATION OF A PORTION (THE SOUTHERN HALF) OF THE WEST 59TH STREET STREET-END, WEST OF NORTH BAY ROAD, IN FAVOR OF ROGER J. SCHINDLER AND LESLIE SCHINDLER, OWNERS OF THE ADJACENT PROPERTY LOCATED AT 5860 NORTH

BAY ROAD.

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

BACKGROUND:

City right-of-ways have been vacated previously by criteria establish by the City in 1989 and City Code, Chapter 82, Article II, Section 82-37. When the LaGorce-Golf Subdivision was platted in 1925, a portion of West 56th Street and West 59th Street the extreme end of the street adjacent to the bay, was retained as private land and sold to one of the adjacent property owners (see attached sketch "A"). The portion of West 59th Street street-end is now owned by Roger Schindler and wife Leslie, owners of the property located at 5860 North Bay Road.

Mr. Roger Schindler was granted a revocable permit on December 24, 1991 for the installation of a wrought iron gate and fence enclosing the remainder of West 59th Street street-end, west of North Bay Road.

Mr. Schindler constructed, instead, a stucco plywood wall with aluminum louvered gates. In 2001, when a construction permit was sought for the reconstruction of the existing wall and gates, an amendment to the revocable permit was requested. On December 19, 2001 an amendment to a revocable permit issued on December 24, 1991 for fence construction was denied by the City Commission because of the ownership questions. The issue was referred to the Land Use and Development Committee.

The City Commission, upon the recommendation of the Land Use and Development Committee, directed the Administration to consider the vacation of the property along West 56th and West 59th Streets, from North Bay Road to the street-end, to the adjacent property

July7, 2004 Commission Memorandum Vacation of Right-of-Way Page 2

owners, while maintaining all the necessary utility easements. The owners of adjacent property on West 56th Street have not made application for vacating property.

Mr. Thomas Harris and Mr. Roger Schindler, the property owners adjacent to the West 59th Street street-end, have met the requirements as set forth in the July 26, 1989 Land Use Committee guidelines and City Code Chapter 82, Article II Sec. 82-37 for street vacation application requirements and are requesting the vacation of this street-end in their favor.

This request has been delayed in reaching the City Commission for considering due to questions regarding the City's ability and procedures for vacating, selling or otherwise disposing of City owned property. The Finance and Citywide Projects Committee on June 9, 2004 requested the Administration treat each applicant on a case by case basis.

ANALYSIS:

In accordance with Ordinance No. 92-2783, codified into City Code Chapter 82, Article II, Section 82-37, the City, shall, prior to sale or vacation of city property, schedule a public hearing, during a meeting of the City Commission, to consider the request for vacation of the right-of-way. Furthermore, the public hearing must be advertised not less than fifteen days prior, and official notices mailed to property owners within 375 feet of the site.

As shown in the attached sketch, Mr. and Mrs. Schindler own the western most 30 feet of the street-end adjacent to Biscayne Bay. The remainder of the street-end is a public right-of-way with two storm-water pipes traversing the street-end and discharging into Biscayne Bay.

The Administration has again reviewed these uniquely situated street-ends, and reiterates the recommendations presented to the City Commission on March 20, 2002, for the following reasons:

- 1. The dead-end street-ends at West 56th and West 59th Streets do not access the Bay water. The western most 30 feet are privately owned.
- 2. By vacating the street-end and quit-claiming the north half to Mr. Thomas Harris and the south half to Mr. and Mrs. Schindler, the property values of these residences will increase and hence the ad-valorem tax contribution to the City.
- 3. There is a 48 inch and a 24 inch storm sewer pipe within this street-end. The City will retain utility easement rights for the entire street-end being vacated.

CONCLUSION:

The City Commission should set a public hearing to consider approving vacation of the 25-foot property along the north and south side of West 59th Street centerline, from North Bay Road to the street-end.

JMG/RCM/FHB/RH/AV/

RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING FOR JULY 28, 2004 TO CONSIDER PUBLIC COMMENT, AS REQUIRED BY SECTION 82-37 OF THE CITY CODE (ORDINANCE NO. 92-2783), REGARDING THE VACATION OF A PORTION (THE SOUTHERN HALF) OF THE WEST 59TH STREET STREET-END, WEST OF NORTH BAY ROAD, IN FAVOR OF ROGER J. SCHINDLER AND LESLIE SCHINDLER, OWNERS OF THE ADJACENT PROPERTY LOCATED AT 5860 NORTH BAY ROAD.

WHEREAS, when LaGorce-Golf Subdivision was platted in 1925, a portion of the West 59th Street street-end adjacent to the Bay, was retained as private property owned by the adjacent property owners; and

WHEREAS, pursuant to a request for vacation of the aforestated street-end by the adjacent property owners, and due to the aforementioned unique situation, the Mayor and City Commission, on March 20, 2002, upon the recommendation of the Land Use and Development Committee, directed the Administration to consider the vacation of this unique street-end to the adjacent property owners, maintaining all the necessary utility easements; and

WHEREAS, Mr. Roger Schindler and his wife, Leslie (collectively, the Applicant), are one of the adjacent property owners, residing at 5860 North Bay Road, and have requested the vacation of the southern portion of the West 59th Street street-end; and

WHEREAS, the Applicant has complied with the City's application requirements for such vacation; and

WHEREAS, pursuant to the City's guidelines for vacation or abandonment of streets or other rights-of-way, the Applicant is also required to comply with the requirements of Miami Beach City Code, Section 82-37 (Ordinance No. 92-2783); accordingly the Mayor and City Commission are required to hold a public hearing to hear public comment as to the aforestated request for vacation.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that a public hearing to consider the vacation of the southern half of the West 59th Street street-end, in favor of Roger and Leslie Schindler, as the adjacent property owners, residing at 5860 North Bay Road, is hereby called to be held before the Mayor and City Commission in their Chambers on the Third Floor of City Hall, 1700 Convention Center Drive, Miami Beach, Florida on July 28, 2004, beginning at ______ m., and the City Clerk is hereby authorized and directed to publish appropriate Public Notice of said Public Hearing at which time and place all interested parties will be heard.

PASSED and ADO	DPTED this day of APPROVED AS TO	, 2004	
ATTEST:	FORM & LANGUAGE & FOR EXECUTION		
CITY CLERK	City Attorney (16) Date	MAYOR	301

SKETCH "A" SHOWING W 59TH STREET-END

CITY OF MIAMI BEACH COMMISSION ITEM SUMMARY



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A Resolution calling a public hearing to consider public comments, as required by Ordinance no. 92-2783, regarding the vacation of a portion of West 59th Street street-end, west of North Bay Road, in favor of Thomas Harris, owner of the adjacent property located at 5900 North Bay Road.

Issue

Shall a public hearing be scheduled to consider vacation of a portion of West 59th Street street-end, west of North Bay Road?

Item Summary/Recommendation:

City right-of-ways have been vacated previously by criteria established by the City in 1989 and City Code, Chapter 82, Article II, Section 82-37. When originally platted, 56th and 59th Street street-ends were unique situations, in that the extreme ends of the streets at the bay are privately owned by the adjacent property owners. The City Commission on March 20, 2002, following the recommendation of the Land Use and Development Committee, directed the vacating of West 56th and West 59th Streets from North Bay Road to the privately owned street-end, to the adjacent property owners, while maintaining all the necessary utility easements. The property owners adjacent to West 59th Street street-end have complied with the vacation application requirements by submitting the application fee and providing a list of affected property owners. This application was delayed while the City reviewed the authority and procedure for vacating or disposing of public right-of-ways and property. The Finance and Citywide Projects Committee on June 9, 2004 requested the Administration treat each applicant on a case by case basis.

Administration recommends approval of the Resolution

dvisory Board N/A	Recommend	dation:			
inancial Inform	ation:				
Source of		Amount	Accou	int	Approve
Funds:	1		<u> </u>		7.777.030
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	4				
Finance Dept.	Total		<u> </u>		
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gn-Offs:					
Department	irector	Assistant City M	anager	City Ma	nager
(PTI				Juan	

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139 www.miamibeachfl.gov



Date: July 7, 2004

COMMISSION MEMORANDUM

To:

Mayor David Dermer and

Members of the City Commission

From:

Jorge M. Gonzalez

City Manager

Subject:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING FOR JULY 28, 2004, TO CONSIDER PUBLIC COMMENT, AS REQUIRED BY SECTION 82-37 OF THE CITY CODE (ORDINANCE NO. 92-2783), REGARDING THE VACATION OF A PORTION (THE NORTHERN HALF) OF THE WEST 59TH STREET STREET-END, WEST OF NORTH BAY ROAD, IN FAVOR OF THOMAS HARRIS, OWNER OF THE ADJACENT

PROPERTY LOCATED AT 5900 NORTH BAY ROAD.

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

BACKGROUND:

City right-of-ways have been vacated previously by criteria establish by the City in 1989 and City Code, Chapter 82, Article II, Section 82-37. When the LaGorce-Golf Subdivision was platted in 1925, a portion of West 56th Street and West 59th Street the extreme end of the street adjacent to the bay, was retained as private land and sold to one of the adjacent property owners (see attached sketch "A"). The portion of West 59th Street street-end is now owned by Roger Schindler and wife Leslie, owners of the property located at 5860 North Bay Road.

Mr. Roger Schindler was granted a revocable permit on December 24, 1991 for the installation of a wrought iron gate and fence enclosing the remainder of West 59th Street street-end, west of North Bay Road.

Mr. Schindler constructed, instead, a stucco plywood wall with aluminum louvered gates. In 2001, when a construction permit was sought for the reconstruction of the existing wall and gates, an amendment to the revocable permit was requested. On December 19, 2001 an amendment to a revocable permit issued on December 24, 1991 for fence construction was denied by the City Commission because of the ownership questions. The issue was referred to the Land Use and Development Committee.

The City Commission, upon the recommendation of the Land Use and Development Committee, directed the Administration to consider the vacation of the property along West 56th and West 59th Streets, from North Bay Road to the street-end, to the adjacent property owners, while maintaining all the necessary utility easements. The owners of adjacent property on West 56th Street have not made application for vacating property.

July7, 2004 Commission Memorandum Vacation of Right-of-Way Page 2

Mr. Thomas Harris and Mr. Roger Schindler, the property owners adjacent to the West 59th Street street-end, have met the requirements as set forth in the July 26, 1989 Land Use Committee guidelines and City Code Chapter 82, Article II Sec. 82-37 for street vacation application requirements and are requesting the vacation of this street-end in their favor.

This request has been delayed in reaching the City Commission for consideration due to questions regarding the City's ability and procedures for vacating, selling or otherwise disposing of City owned property. The Finance and Citywide Projects Committee on June 9, 2004 requested the Administration treat each applicant on a case by case basis.

ANALYSIS:

In accordance with Ordinance No. 92-2783, codified into City Code Chapter 82, Article II, Section 82-37, the City, shall, prior to sale or vacation of city property, schedule a public hearing, during a meeting of the City Commission, to consider the request for vacation of the right-of-way. Furthermore, the public hearing must be advertised not less than fifteen days prior, and official notices mailed to property owners within 375 feet of the site.

As shown in the attached sketch, Mr. and Mrs. Schindler own the western most 30 feet of the street-end adjacent to Biscayne Bay. The remainder of the street-end is a public right-of-way with two storm-water pipes traversing the street-end and discharging into Biscayne Bay.

The Administration has again reviewed these uniquely situated street-ends, and reiterates the recommendations presented to the City Commission on March 20, 2002, for the following reasons:

- 1. The dead-end street-ends at West 56th and West 59th Streets do not access the Bay water. The western most 30 feet are privately owned.
- 2. By vacating the street-end and quit-claiming the north half to Mr. Thomas Harris and the south half to Mr. and Mrs. Schindler, the property values of these residences will increase and hence the ad-valorem tax contribution to the City.
- 3. There is a 48 inch and a 24 inch storm sewer pipe within this street-end. The City will retain utility easement rights for the entire street-end being vacated.

CONCLUSION:

The City Commission should set a public hearing to consider approving vacation of the 25-foot property along the north and south side of West 59th Street centerline, from North Bay Road to the street-end.

JMG/RCM/FHB/RH

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RESOLUTION	NO.	

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING TO CONSIDER PUBLIC COMMENT, AS REQUIRED BY SECTION 82-37 OF THE CITY CODE (ORDINANCE NO. 92-2783), REGARDING THE VACATION OF A PORTION (THE NORTHERN HALF) OF THE WEST 59TH STREET STREET-END, WEST OF NORTH BAY ROAD, IN FAVOR OF WILLIAM THOMAS HARRIS III AND RICHARD KOENIGSBERG, AS TRUSTEES (THE "TOM HARRIS TRUST"), OWNER OF THE ADJACENT PROPERTY LOCATED AT 5900 NORTH BAY ROAD.

WHEREAS, when LaGorce-Golf Subdivision was platted in 1925, a portion of the West 59th Street street-end adjacent to the Bay, was retained as private property owned by the adjacent property owners; and

WHEREAS, pursuant to a request for vacation of the aforestated street-end by the adjacent property owners, and due to the aforementioned unique situation, the Mayor and City Commission, on March 20, 2002, upon the recommendation of the Land Use and Development Committee, directed the Administration to consider the vacation of this unique street-end to the adjacent property owners, maintaining all the necessary utility easements; and

WHEREAS, the Tom Harris Trust (Applicant), is one of the adjacent property owners, residing at 5900 North Bay Road, and has requested the vacation of the northern portion of the West 59th Street street-end; and

WHEREAS, the Applicant has complied with the City's application requirements for such vacation; and

WHEREAS, pursuant to the City's guidelines for vacation or abandonment of streets or other rights-of-way, the Applicant is also required to comply with the requirements of Miami Beach City Code, Section 82-37 (Ordinance No. 92-2783); accordingly the Mayor and City Commission are required to hold a public hearing to hear public comment as to the aforestated request for vacation.

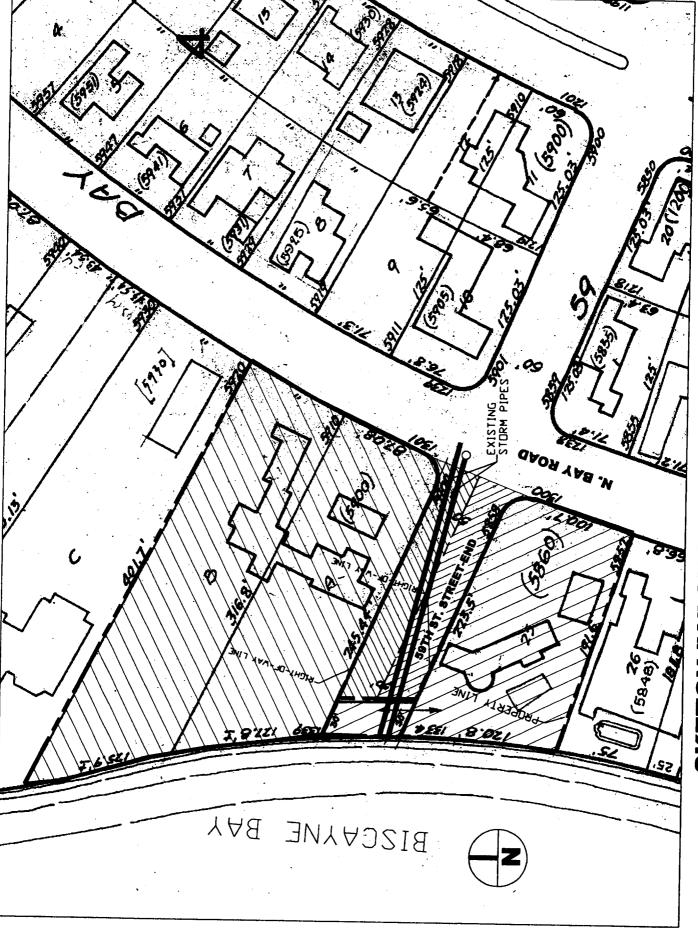
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NOW, THEREFORE, BE IT DI	JLY RESOLVE	ED BY THE MAYOR	AND CITY
COMMISSION OF THE CITY OF MI	AMI BEACH.	FLORIDA that a publi	c hearing to
consider the vacation of the northern half or	f the West 59th	Street street-end in favor	r of William
Thomas Harris III and Richard Koenigsb	erg as Trustees	(The "Tom Harris Tru	i Oi Williaili
adjacent property owner, residing at 5900 N	Jorth Bay Road	is hereby called to be hel	d before the
Mayor and City Commission in their Chamle	bers on the Third	Floor of City Hall 1700	Convention
Center Drive, Miami Beach, Florida on	2004	heginning at	m and the
City Clerk is hereby authorized and directe	d to publish app	ropriate Public Notice of	and Dublic
Hearing at which time and place all intereste	ed parties will be	heard	sald Public
Family and American	a parties will be	neard.	
PASSED and ADOPTED this	day of	2004	
		, 2001	
ATTEST:			
		MAYOR	
CITY CLERK			

T:\AGENDA\2004\Jul0704\Consent\59thStreetHarrisReso.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

Chy Attorney Date



SKETCH "A" SHOWING W 59TH STREET-END

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